

EXHIBIT “6”

COURT OF COMMON PLEAS - MINUSCRIPT

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IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
PHILADELPHIA MUNICIPAL COURT

COMMONWEALTH : M.C. 0101-0590

VS. :

ANTHONY HODGES :

COMMONWEALTH : M.C. 0101-0591

VS. :

KAREEM TORAIN :

COMMONWEALTH : M.C. 0101-0592

VS. :

ARTHUR TILLMAN :

COMMONWEALTH : M.C. 0101-0594

VS. :

KABIYAN DIGGS :

COMMONWEALTH : M.C. 0101-0648

VS. :

RAYMOND HOWARD :

COMMONWEALTH : M.C. 0101-0711

VS. :

MAURICE GREY. :

PRELIMINARY HEARING

OCTOBER 23, 2001
COURTROOM 1003, CRIMINAL JUSTICE CENTER
PHILADELPHIA, PENNSYLVANIA

BEFORE: THE HONORABLE MARSHA N. NEIFIELD, J.

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APPEARANCES:

LOUISA ASHMEAD ROBINSON, ESQ.
ASSISTANT DISTRICT ATTORNEY
FOR THE COMMONWEALTH

GIOVANNI CAMPBELL, ESQ.
FOR DEFENDANT ANTHONY HODGES

GUY SCIOLLA, ESQ.
FOR DEFENDANT KAREEM TORAIN

BRIAN MC MONAGLE, ESQ.
FOR DEFENDANTS KARIYAN DIGGS AND
ARTHUR TILLMAN

FRANK SPINA, II, ESQ.
FOR DEFENDANT RAYMOND HOWARD

DOUGLAS STERN, ESQ.
FOR DEFENDANT MAURICE GREY

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PROCEEDINGS

MS. ROBINSON: COUNSEL HAS ALREADY
GRACIOUSLY AGREED TO STIPULATE TO THE SEIZURE
ANALYSIS.

COMMONWEALTH CALLS OFFICER BRIAN
MONAGHAN. ALL MY WITNESSES ARE SEQUESTERED.
IF THERE ARE ANY DEFENSE WITNESSES, I'D ASK
THEY BE SEQUESTERED.

THE COURT: NOBODY SEEMS TO BE AWARE OF
ANY DEFENSE WITNESSES.

MR. SCIOLLA: THERE ARE NONE.

POLICE OFFICER BRIAN MONAGHAN, BADGE
NO. 6061, NARCOTICS FIELD UNIT, PHILADELPHIA
POLICE DEPARTMENT, CALLED AS A WITNESS ON
BEHALF OF THE COMMONWEALTH, HAVING BEEN DULY
SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

MS. ROBINSON: MAY I PROCEED, YOUR HONOR?
THE COURT: YOU MAY.

DIRECT EXAMINATION

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COMMONWEALTH'S EVIDENCE DIRECT CROSS REDIRECT RECROSS

OFF. BRIAN MONAGHAN				
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Off. Brian Monaghan - Direct

BY MS. ROBINSON:

Q. OFFICER MONAGHAN, I'D LIKE TO DIRECT YOUR
ATTENTION TO JANUARY 2ND, 2001.

DID YOU HAVE LOCATION ON THAT DATE AT
APPROXIMATELY 3:45 P.M. TO SET UP A SURVEILLANCE NEAR
THE 5600 BLOCK OF WEST MASTER STREET?

A. YES, I DID.

Q. AND ON THAT DATE AND OCCASION DID YOU HAVE
OCCASION TO OBSERVE ANYONE WHO YOU SEE HERE TODAY IN
COURT?

A. YES, I DID.

Q. WOULD YOU PLEASE POINT TO THAT INDIVIDUAL?

A. THE DEFENDANT IN THE GRAY SHIRT, GAVE HIS NAME
ANTHONY HODGE, THE DEFENDANT IN THE RED SHIRT, GAVE
HIS NAME -- I SEEN HIM ON THE 4TH, YOUR HONOR, HIS
NAME IS --

MR. SCIOLLA: I'M GOING TO OBJECT.

THE COURT: JUST TELL ME ABOUT

JANUARY 2ND. WE'LL GET TO THE 4TH.

THE WITNESS: JANUARY 2ND, ONLY ONE I
NOTICED WAS THE MALE IN THE GRAY SHIRT.

BY MS. ROBINSON:

Q. AND ON THAT DATE, WHAT, IF ANYTHING, DID YOU
SEE THE DEFENDANT ANTHONY HODGES DOING?

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1 Off. Brian Monaghan - Direct 6
 2 A. YOUR HONOR, I SET UP A SURVEILLANCE WITH MY
 3 PARTNER, POLICE OFFICER SEAN KELLY, K-E-L-L-Y, BADGE
 4 NO. 7126, IN THE AREA OF THE 5600 BLOCK OF WEST MASTER
 5 STREET, YOUR HONOR. I OBSERVED TWO BLACK MALES,
 6 YOUR HONOR. I OBSERVED THE DEFENDANT IN THE GRAY
 7 SHIRT, ALSO ANOTHER MALE LATER I.D.'D AS DARNELL
 8 DE LEE. YOUR HONOR, THEY WERE STANDING --
 9 MR. MC MONAGLE: NO DISRESPECT, I
 10 NOTICE OFFICER MONAGHAN IS READING FROM
 11 SOMETHING. I JUST ASK, IS IT THE '49 HE'S
 12 READING FROM?
 13 THE WITNESS: YES, IT IS, YOUR HONOR.
 14 I'M JUST REFRESHING DATES AND TIMES.
 15 THE COURT: THAT'S FINE.
 16 MS. ROBINSON: AND ALL COUNSEL HAVE BEEN
 17 PROVIDED WITH A COPY OF THE '49.
 18 BY MS. ROBINSON:
 19 Q. YOU MAY PROCEED, OFFICER MONAGHAN.
 20 A. YOUR HONOR, THEY WERE STANDING ON THE PORCH OF
 21 5605. THREE HOUSES -- WE WERE DOING THE SURVEILLANCE
 22 ON 5605, '07, AND 5609.
 23 Q. AND JUST SO THE RECORD'S CLEAR, COULD YOU
 24 DESCRIBE THOSE HOUSES IN RELATIONSHIP TO ONE ANOTHER,
 25 HOW THEY APPEARED, TO HER HONOR?

PAGE 7

1 Off. Brian Monaghan - Direct 7
 2 A. YOUR HONOR, THE HOUSES, THEY'RE ROW HOUSES,
 3 CONSECUTIVE ROW HOUSES.
 4 Q. AND WHICH ONE IS TO THE RIGHT, LEFT, CENTER?
 5 A. 5605, RIGHT, 5607, CENTER AND 5609 TO THE LEFT.
 6 FAR LEFT IS ITHAM STREET.
 7 Q. AND YOU MAY PROCEED. WHAT DID YOU SEE?
 8 A. AROUND 3:45 P.M. I OBSERVED THE DEFENDANT
 9 HODGES, HE WENT TOWARDS THE DOORWAY OF 5605. AT THIS
 10 TIME I OBSERVED THAT THE DOOR OPENED AND AN OBJECT,
 11 GOLF BALL SIZE OBJECT WAS HANDED OUTSIDE THAT DOOR. I
 12 COULDN'T SEE WHO OPENED THE DOOR OR WHO HANDED IT. HE
 13 THEN GAVE THE OTHER MALE, DE LEE, SMALL OBJECTS FROM
 14 THAT, ENDED UP BEING A CLEAR BAGGIE, YOUR HONOR.
 15 BETWEEN THE TIME OF 3:45 AND ABOUT 5:00, YOUR
 16 HONOR, I OBSERVED HODGES IN THE GRAY SHIRT AND DE LEE
 17 SELL TO NUMEROUS BLACK MALES AND BLACK FEMALES,
 18 YOUR HONOR, ON DIFFERENT OCCASIONS. THEY WOULD ACCEPT
 19 U.S. CURRENCY, AT WHICH TIME THEY WOULD TAKE OBJECTS
 20 FROM THE CLEAR BAGGIE THAT HODGES HAD, AND DE LEE
 21 WOULD TAKE THEM FROM HIS PERSON. THEY WOULD GIVE THE
 22 SMALL PACKETS TO THE BLACK MALES AND BLACK FEMALES WHO
 23 THEN LEFT THE AREA, YOUR HONOR. YOUR HONOR, I SAW
 24 NUMEROUS SALES. IT WAS PRETTY BUSY AT THAT TIME
 25 PERIOD.

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1 Off. Brian Monaghan - Direct 8
 2 Q. COULD YOU PUT ANY KIND OF NUMBER ON IT, OFFICER
 3 MONAGHAN?
 4 A. I WOULD SAY CLOSE TO MAYBE TEN, MAYBE LITTLE
 5 BIT MORE THAN TEN OCCASIONS.
 6 Q. AFTER YOU SAW THIS, WHAT, IF ANYTHING, DID YOU
 7 NOTICE DURING THE COURSE OF YOUR SURVEILLANCE?
 8 A. YOUR HONOR, I STILL KEPT UP THE SURVEILLANCE.
 9 ABOUT 5:12 P.M. IN THE 5500 BLOCK OF MASTER STREET I
 10 OBSERVED A GRAY-COLORED OLDSMOBILE PULL UP, TWO BLACK
 11 MALES IN IT. PASSENGER GOT OUT, YOUR HONOR, HE WALKED
 12 WESTBOUND ON MASTER STREET TO 5607. IT WAS THE MIDDLE
 13 PORCH, YOUR HONOR.
 14 THE DEFENDANT IN THE GRAY SHIRT AND DE LEE
 15 WAS STANDING ON THAT PORCH. THEY HAD A BRIEF
 16 CONVERSATION, YOUR HONOR. THE BLACK MALE WAS
 17 CARRYING SOME TYPE OF A BLACK BAG, LIKE A CARRY-ALL
 18 BAG, YOUR HONOR. THEY WENT INTO THAT PROPERTY FOR
 19 ABOUT MAYBE A LITTLE LESS THAN TEN MINUTES THEY WERE
 20 IN THAT PROPERTY, YOUR HONOR, AT WHICH TIME THE MALE
 21 CAME OUT.
 22 YOUR HONOR, FROM WHERE I WAS I SAW, I WAS USING
 23 BINOCULARS, I COULD SEE THAT HE HAD A PRETTY GOOD
 24 SIZED BAGGIE CONTAINING --
 25 MR. GIOVANNI: WHO'S 'HE'?

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1 Off. Brian Monaghan - Direct 9
 2 THE WITNESS: THE UNKNOWN BLACK MALE WHO
 3 CAME OUT.
 4 BOTH MALES, YOUR HONOR, HODGES AND DE
 5 LEE, BOTH FOLLOWED HIM OUT. IT WAS A CLEAR
 6 BAGGIE, LOOKED LIKE IT HAD GREEN SUBSTANCE
 7 INSIDE THAT BAGGIE.
 8 YOUR HONOR, HE PUT IT INTO THE BLACK
 9 MALE'S CAR, AT WHICH TIME THE OLDSMOBILE LEFT
 10 THE AREA. I NOTIFIED BACKUP OFFICERS. THAT
 11 VEHICLE WAS LOST. THE VEHICLE PULLED OVER AT
 12 4710 MERION, YOUR HONOR, I BELIEVE, YOUR HONOR
 13 AND THE PERSON WENT INTO THE HOUSE. HE WAS
 14 NEVER LOCATED OR I.D.'D, YOUR HONOR.
 15 BY MS. ROBINSON:
 16 Q. MOVING ON TO WEDNESDAY, JANUARY 3RD, 2001, DID
 17 YOU HAVE OCCASION AT APPROXIMATELY 11 IN THE MORNING
 18 TO AGAIN SET UP A SURVEILLANCE OF THE LOCATIONS OF
 19 5605, 5607, AND 5609 WEST MASTER STREET IN
 20 PHILADELPHIA?
 21 A. YES, I DID.
 22 YOUR HONOR, IT WAS ABOUT 11 A.M. I WAS WITH MY
 23 PARTNER AGAIN, POLICE OFFICER SEAN KELLY, BADGE
 24 NO. 7126. YOUR HONOR, ABOUT 11:30 I OBSERVED A
 25 DARK-COLORED BUICK, IT WAS A PENNSYLVANIA TAG,

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1 Off. Brian Monaghan - Direct 10
 2 DKD-2171. IT PULLED UP IN FRONT OF THAT LOCATION,
 3 YOUR HONOR, AND A BLACK MALE EXITED BY THE NAME OF
 4 DARWELL DE LEE, THE MALE THAT I SAW PREVIOUS ON THE
 5 2ND YOUR HONOR, THAT WAS WITH THE MALE IN THE GRAY
 6 SHIRT.
 7 YOUR HONOR, ABOUT 11:52, DE LEE WENT UP, HE WAS
 8 STANDING ON THE PORCH OF 5606, AT WHICH TIME HE WENT
 9 TOWARDS THE DOORWAY. YOUR HONOR, I COULDN'T SEE AT
 10 THE TIME THAT HE KNOCKED ON THE DOOR, BUT THE DOOR
 11 OPENED, AND AS HE TURNED AROUND, HE WAS HOLDING A
 12 CLEAR BAGGIE, A GOLF BALL SIZED ONE IN HIS HAND.
 13 YOUR HONOR, BETWEEN 11:30 AND 11:58 DE LEE,
 14 DARNELL DE LEE, SOLD TO NUMEROUS MALES AND FEMALES
 15 THAT CAME UP TO THE PORCH, SAME AS THE DAY BEFORE. HE
 16 ACCEPTED U.S. CURRENCY. IN EXCHANGE HE GAVE SMALL
 17 OBJECTS FROM THAT CLEAR BAGGIE, THE GOLF BALL SIZED
 18 OBJECT, YOUR HONOR.
 19 Q. CAN YOU PUT ANY KIND OF NUMBER ON HOW MANY
 20 INDIVIDUALS HE SOLD TO DURING THAT COURSE OF TIME?
 21 A. ANYWHERE BETWEEN FIVE, MAYBE TEN PEOPLE AT THAT
 22 TIME.
 23 Q. AND THEN AT 11:58 A.M. DID YOU HAVE OCCASION TO
 24 SEE ANYONE ELSE?
 25 A. YES, I DID.

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1 Off. Brian Monaghan - Direct 11
 2 YOUR HONOR, 11:58 A.M. A BLACK MALE, WHO WAS
 3 LATER I.D.'D AS MIGEL MOON, HE'S SITTING IN THE GRAY
 4 SHIRT, YOUR HONOR, IN THE BACK OF THE COURTROOM WITH
 5 THE BRAIDS ON, YOUR HONOR, HE EXITED 5605, YOUR HONOR.
 6 HE HAD A DARK JACKET ON. HE HAD A BLUE AND WHITE
 7 TITANS BASEBALL CAP ON.
 8 YOUR HONOR, HE HAD A CONVERSATION WITH DE LEE
 9 WHO WAS STANDING ON THAT PORCH AT THAT TIME. YOUR
 10 HONOR, IN THAT TIME, A COUPLE MINUTES, I BELIEVE IT
 11 WAS A BLACK MALE CAME UP WITH A TAN OUTFIT ON. HE
 12 ACCEPTED -- MOON ACCEPTED U.S. CURRENCY FROM HIM IN
 13 EXCHANGE FOR SMALL OBJECTS, AND MOON WAS CARRYING A
 14 CLEAR BAGGIE, YOUR HONOR. INSIDE THE BAGGIE I COULD
 15 SEE THERE WERE GREEN TINTED PACKETS.
 16 YOUR HONOR, AFTER HE MADE THE SALE, I OBSERVED
 17 MOON, HE WOULD WALK OVER TO THE PORCH, 5607. HE WOULD
 18 CLIMB OVER THE RAILING BACK AND FORTH, YOUR HONOR. AT
 19 DIFFERENT TIMES I SAW HIM COUNTING THE PACKETS, THE
 20 GREEN PACKETS THAT WAS INSIDE THE CLEAR BAGGIE.
 21 YOUR HONOR, HE GAVE NUMEROUS PACKETS TO MALES AND
 22 FEMALES. AFTER THAT IT WAS A COUPLE MORE SALES.
 23 HE WAS STANDING THERE WITH HODGES, YOUR HONOR.
 24 NO, YOUR HONOR, DE LEE. HODGES EXITED THE HOUSE AT
 25 2:22 P.M. HE EXITED 5607. HE COMES OUT OF 5607,

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1 Off. Brian Monaghan - Direct 12
 2 YOUR HONOR, HE HAS A BRIEF CONVERSATION WITH A BLACK
 3 MALE WHO HAD A BLACK JACKET ON. HODGES ACCEPTED U.S.
 4 CURRENCY FROM THAT MALE IN EXCHANGE FOR SMALL OBJECTS
 5 HODGES REMOVED FROM HIS, I BELIEVE IT WAS HIS JACKET
 6 POCKET, YOUR HONOR.
 7 YOUR HONOR, ABOUT 2:26 P.M., MOON TAKES THE
 8 BAGGIE WITH THE GREEN OBJECTS FROM, I'M NOT SURE
 9 WHETHER IT WAS JACKET OR PANTS, AT WHICH TIME HE
 10 HANDED IT TO DE LEE ON THE PORCH OF 5605. MOON THEN
 11 ENTERED A DARK-COLORED OLDSMOBILE. I BELIEVE THE TAG
 12 WAS -- IF I COULD REFER TO MY NOTES -- BZR-4983. HE
 13 LEAVES THE AREA. HE NEVER COMES BACK.
 14 YOUR HONOR, ABOUT 2:30, ANOTHER BLACK MALE
 15 PULLED UP IN A SUBARU STATION WAGON. THAT MALE IS
 16 SITTING IN THE RED -- WITH THE RED SWEATSHIRT IN THE
 17 SECOND SEAT. HE GAVE US THE NAME KABIYAN DIGGS.
 18 YOUR HONOR, I SAW HIM OPEN UP THE BACK OF HIS VEHICLE,
 19 AT WHICH TIME HE TOOK OUT A GREEN TIMBERLAND BOX,
 20 YOUR HONOR. ALL HE DID WAS WALK INTO 5605 WITH THE
 21 BOX, IN THERE A FEW MINUTES, CAME OUT AND LEFT THE
 22 AREA.
 23 MS. ROBINSON: FOR THE RECORD, THE
 24 WITNESS DID IDENTIFY KABIYAN DIGGS.
 25 BY MS. ROBINSON:

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1 Off. Brian Monaghan - Direct 13
 2 Q. YOU MAY PROCEED, OFFICER MONAGHAN.
 3 A. YOUR HONOR ABOUT 3:56, I OBSERVED THAT DE LEE,
 4 WHO WENT TO THE CORNER OF 56TH AND MASTER STREET, IT'S
 5 A STOP AND GO, YOUR HONOR, IT'S ON THE SOUTHEAST
 6 CORNER OF 56TH AND MASTER, YOUR HONOR, HE WAS INSIDE
 7 THE STORE, DIFFERENT TIMES HE CAME OUT, HE MET UP WITH
 8 TWO BLACK FEMALES, HE ACCEPTED U.S. CURRENCY FROM THE
 9 BLACK FEMALES, HE WALKED TOWARDS THE REAR OF THE
 10 STORE, ON 56TH STREET, AT WHICH TIME HE REMOVED A
 11 CLEAR BAGGIE FROM HIS POCKETS, TOOK OUT SMALL OBJECTS,
 12 WALKED BACK, HANDED THE OBJECTS TO THE BLACK FEMALE,
 13 WHO LEFT THE AREA.
 14 YOUR HONOR, ABOUT 3:58 I INSTRUCTED POLICE
 15 OFFICER BRAD MITCHELL, BADGE NO. 4145, TO GO TO THE
 16 AREA OF 56TH AND MASTER STREET AND MAKE A CONTROLLED
 17 NARCOTICS PURCHASE, AND I GAVE HIM THE DESCRIPTION OF
 18 DARNELL DE LEE. YOUR HONOR, DE LEE WAS STANDING IN
 19 THE DOOR. MITCHELL WENT IN THE STORE. I BELIEVE HE
 20 HAD A BRIEF CONVERSATION WITH DE LEE.
 21 AT THIS TIME DE LEE TOLD HIM TO HOLD ON. HE
 22 WENT OUT THE SIDE DOOR ON 56TH STREET, BACK TOWARDS
 23 THE REAR OF THE STORE, YOUR HONOR, RIGHT ON 56TH
 24 STREET. HE REMOVED A CLEAR BAGGIE, TOOK OUT OBJECTS
 25 FROM THAT CLEAR BAGGIE, WALKED BACK, AND INSTRUCTED

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Off. Brian Monaghan - Direct

14

MITCHELL TO COME OUT THE SIDE DOOR, AT WHICH TIME MITCHELL CAME OUT THE SIDE DOOR, MITCHELL HANDED \$20 PRERECORDED BUY MONEY THAT I PRERECORDED MYSELF, YOUR HONOR, ALONG WITH A NARCOTICS SUPERVISOR, IN EXCHANGE FOR SMALL OBJECTS HE TOOK FROM THE CLEAR BAGGIE.

YOUR HONOR, MITCHELL HANDED OVER TO ME FOUR BLACK TINTED OBJECTS, ZIP-LOCK PACKETS CONTAINING AN OFF-WHITE CHUNKY SUBSTANCE, ALLEGED CRACK COCAINE.

Q. WHAT DID YOU DO WITH THOSE FOUR PACKETS, OFFICER?

A. R&D TEST ON THOSE ITEMS, WHICH I'M CERTIFIED TO DO, THEY WERE POSITIVE FOR THE PRESENCE OF COCAINE BASE. I PLACED THEM ON PROPERTY RECEIPT -- IF I CAN REFER TO MY NOTES.

MR. SCIOLLA: WE'LL STIPULATE.

MS. ROBINSON: THANK YOU.

THE WITNESS: YOUR HONOR, THAT WAS -- I WAS DONE MY SURVEILLANCE. THAT WAS FINISHED FOR THE DAY, YOUR HONOR.

BY MS. ROBINSON:

Q. DIRECTING YOUR ATTENTION TO JANUARY 4TH OF 2001, YOU HAVE OCCASION TO SET UP A SURVEILLANCE IN THE AREA OF 56TH AND MASTER STREETS AT APPROXIMATELY

Off. Brian Monaghan - Direct

16

DRIVER OF THAT VEHICLE.

Q. AND THEN WHAT HAPPENED?

A. I INSTRUCTED POLICE OFFICER WALKER, BADGE NO. 3730, THAT THE VEHICLE WAS COMING OUT ONTO MEDIA STREET OFF OF ITHAN, AT WHICH TIME HE FOLLOWED THAT VEHICLE TO 1621 NORTH CONESTOGA STREET. YOUR HONOR, AS DE LEE EXITED THAT VEHICLE, HE WALKED BACK TO 56TH AND MASTER STREET, YOUR HONOR. HE WAS ON THE SOUTHEAST CORNER. HE KIND OF, LIKE, RAN BACK TO THE CORNER. AND IF I CAN REFER TO MY NOTES, HE WAS IN THIS CAR FOR ABOUT TWO TO THREE MINUTES, RAN BACK TO THE CORNER.

YOUR HONOR, I OBSERVED HIM TAKE NUMEROUS SMALL OBJECTS FROM HIS POCKET AND HE HANDED THE OBJECTS TO A COUPLE BLACK MALES AND BLACK FEMALES THAT CAME TO THE CORNER IN EXCHANGE FOR U.S. CURRENCY, YOUR HONOR.

APPROXIMATELY 1:43, YOUR HONOR, I OBSERVED, I BELIEF IT'S A SEBRING, WAS TRAVELING WESTBOUND ON MASTER STREET. IT WAS BEING OPERATED BY A BLACK FEMALE, YOUR HONOR. IT STOPPED RIGHT IN FRONT OF 5607. AT THIS TIME THE DEFENDANT IN THE GRAY SHIRT EXITED THAT VEHICLE, WENT INTO 5607, YOUR HONOR, OPENED UP THE DOOR WITH A KEY.

MS. ROBINSON: INDICATING, FOR THE

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Off. Brian Monaghan - Direct

15

1:40 IN THE AFTERNOON?

A. YES. IT WAS ABOUT 1:30 BY THE TIME WE SET UP, YOUR HONOR. I WAS ALSO, AGAIN, WITH MY PARTNER, POLICE OFFICER SEAN KELLY, BADGE NO. 7126. YOUR HONOR, ABOUT 1:41 I OBSERVED DARNELL DE LEE, HE WAS STANDING ON THE PORCH AT 5605, YOUR HONOR. OBSERVED A GREEN BONNEVILLE, AND THAT BONNEVILLE, THE TAG WAS PENNSYLVANIA DKC-3110, YOUR HONOR. IT WAS TRAVELING WESTBOUND ON 56TH STREET. IT SLOWED DOWN IN FRONT OF 5605. ALL I COULD SEE, YOUR HONOR, WAS ONE OCCUPANT, WAS THE DRIVER.

YOUR HONOR, I HEARD DARNELL DE LEE BOLLERING AND POINT TOWARDS THE CORNER OF MASTER AND ITHAN STREET. AT THIS TIME, TORAIN -- AT THIS TIME THE BLACK MALE PULLED HIS VEHICLE UP TO ITHAN AND MASTER STREET, FACING NORTHBOUND ON ITHAN STREET, YOUR HONOR, RIGHT OFF OF MASTER STREET. I OBSERVED THE DEFENDANT DARNELL GET INTO THAT VEHICLE ON THE PASSENGER SIDE. HE WAS IN THERE FOR ABOUT TWO TO THREE MINUTES, YOUR HONOR. AS HE EXITED, HE WAS PUTTING SOMETHING INTO HIS JACKET POCKET.

Q. AND AT THAT POINT WERE YOU ABLE TO SEE WHO WAS THE DRIVER OF THAT VEHICLE?

A. AS THAT TIME, NO, I COULD NOT TELL WHO WAS THE

Off. Brian Monaghan - Direct

17

RECORD, ANTHONY HODGES.

BY MS. ROBINSON:

Q. THEN WHAT?

A. ABOUT 1:55, YOUR HONOR, ME AND POLICE OFFICER KELLY, YOUR HONOR, WE WERE IN OUR VEHICLE AT THE TIME. THE DEFENDANT, DE LEE, WAS STANDING RIGHT NEXT TO OUR VEHICLE, YOUR HONOR, ALSO WITH ANOTHER, WITH THE MALE STANDING OR SITTING BACK THERE IN THE RED SWEATSHIRT, KABIYAN DIGGS.

HE STATED TO DIGGS THAT --

MR. MC MONAGLE: OBJECTION, YOUR HONOR.

MR. SCIOLLA: OBJECTION.

THE COURT: OVERRULED.

BY MS. ROBINSON:

Q. YOU MAY PROCEED.

A. HE STATED TO DIGGS THAT KAREEM HAD ONE BUNDLE ON HIM, THAT HE WAS COMING BACK, HE WOULD CALL AND COME BACK WHEN THE REST WAS READY.

Q. AND AFTER YOU HEARD THIS, WHAT WAS THE NEXT THING THAT YOU SAW OR HEARD?

MR. SCIOLLA: I WOULD RENUE MY OBJECTION, JUDGE.

MR. MC MONAGLE: I JOIN, JUDGE.

THE COURT: OKAY.

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1 Off. Brian Monaghan - Direct 18

2

3 BY MS. ROBINSON:

4 Q. YOU MAY CONTINUE.

5 THE COURT: PROCEED.

6 THE WITNESS: OKAY. YOUR HONOR,

7 APPROXIMATELY 2 P.M., I FOUND OUT THAT TORAIN

8 WAS EXITING THE PROPERTY OF 1621 SOUTH

9 CONESTOGA STREET. POLICE OFFICER REYNOLDS,

10 4268, POLICE OFFICER WALKER, 3730, FOLLOWED HIM

11 OVER TO THIS PROPERTY, 1628 NORTH 55TH STREET.

12 YOUR HONOR, IT'S ON THE SOUTHWEST CORNER OF

13 55TH AND HUNTER STREET. YOUR HONOR, HE OPENED

14 UP THE FRONT DOOR WITH A KEY.

15 BY MS. ROBINSON:

16 Q. AND HOW FAR AWAY IS THIS LOCATION FROM THE 5600

17 BLOCK OF MASTER STREET?

18 A. ABOUT THREE BLOCKS, THREE AND A HALF BLOCKS.

19 Q. AND THEN AFTER YOU LEARNED THIS FROM THOSE

20 OFFICERS, WHAT WAS THE NEXT THING THAT YOU SAW OR

21 HEARD?

22 A. YOUR HONOR, ABOUT 2:05 P.M., I OBSERVED DE LEE

23 WENT TO THE PAY PHONE, NORTHWEST CORNER, HE PICKED UP

24 THE PHONE. I COULDN'T HEAR NO CONVERSATION OR

25 ANYTHING, YOUR HONOR.

1 Off. Brian Monaghan - Direct 20

2 DO YOU HAVE ANY OTHER OFFICERS OUTSIDE?

3 MS. ROBINSON: YES, I DO. I HAVE OFFICER

4 WALKER HERE. HE WILL BE TESTIFYING.

5 THE COURT: HE WILL TESTIFY WHO HE SAW

6 ENTER THE PROPERTIES. I'M GOING TO PERMIT IT

7 WITH THE ASSUMPTION THE OTHER OFFICER IS HERE.

8 WE'LL REPEAT THE SAME TESTIMONY.

9 MR. SCIOLLA: I WOULD OBJECT. I DON'T

10 KNOW THAT MR. TORAIN IS STILL IN THE PROPERTY

11 OR IF THERE ARE MORE PLACES TO GO WITHIN THAT

12 PROPERTY OR SOMEBODY COULD SEE MR. TORAIN WITH

13 THESE OTHER INDIVIDUALS IN THE PROPERTY.

14 BY MS. ROBINSON:

15 Q. OFFICER MONAGHAN, IF YOU JUST LIMIT YOUR

16 TESTIMONY TO WHAT YOU ACTUALLY SAW.

17 A. OKAY.

18 Q. WHERE DID YOU REMAIN DURING THE COURSE OF YOUR

19 COMMUNICATING WITH OFFICERS WALKER AND REYNOLDS?

20 A. STILL AT THE AREA OF 56TH AND MASTER STREET.

21 Q. WERE DE LEE, TILLMAN, DIGGS, AND TORAIN OUT OF

22 YOUR VIEW?

23 A. LITTLE BIT MORE THAN 20 MINUTES.

24 Q. DID YOU HAVE OCCASION TO SEE DE LEE, TILLMAN

25 AND DIGGS RETURN?

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PAGE 21

1 Off. Brian Monaghan - Direct 19

2 Q. HAD YOU HEARD THE PHONE RING BEFORE HE DID

3 THAT?

4 A. NO, I COULD NOT. HE JUST WENT OVER AND PICKED

5 IT UP.

6 YOUR HONOR, THERE WAS -- DIGGS WAS WITH DE LEE.

7 ALSO, IT WAS ANOTHER MALE THAT'S SITTING WITH THE

8 GREEN SWEATER ON, TILLMAN, I BELIEVE HIS NAME, HE GAVE

9 US, TILLMAN. YOUR HONOR, THEY GOT INTO THE BUICK THAT

10 DE LEE WAS DRIVING. THAT WAS THE DARK-COLORED BUICK

11 THAT I MENTIONED ON THE 3RD, YOUR HONOR. THEY WENT TO

12 THE LOCATION OF 1628 NORTH 55TH STREET, YOUR HONOR, LEE

13 AND I INSTRUCTED POLICE OFFICER WALKER AND REYNOLDS TO

14 KEEP AN EYE OUT FOR THAT BUICK.

15 POLICE OFFICER WALKER AND REYNOLDS BOTH LEE

16 OBSERVED THEM, YOUR HONOR, I LATER FOUND OUT, ENTERING

17 1628 NORTH 55TH STREET. YOUR HONOR, THEY WERE IN

18 THERE FOR ABOUT 20 MINUTES ALONG WITH THE DEFENDANT IN

19 THE RED SHIRT, TORAIN.

20 MR. SCIOLLA: I'M GOING TO OBJECT TO

21 THAT, JUDGE.

22 THE COURT: I GAVE YOU SOME LATITUDE. I

23 THINK YOU'RE GOING --

24 MS. ROBINSON: WELL --

25 THE COURT: -- PRETTY FAR AFIELD.

1 Off. Brian Monaghan - Direct 21

2 A. YES, I DID.

3 Q. WHO WAS DRIVING THAT VEHICLE?

4 A. DE LEE WAS DRIVING.

5 Q. AND WAS IT THE SAME VEHICLE THEY HAD LEFT IN?

6 A. YES, IT WAS.

7 Q. WHAT HAPPENED WHEN THEY CAME BACK?

8 A. WHEN THEY CAME BACK, IT WAS ABOUT 2:37 P.M.

9 THEY WENT TO THE PORCH OF 5605. AT THAT TIME I

10 OBSERVED THE DEFENDANT MOON BACK THERE IN THE GRAY, HE

11 WAS STANDING THERE. THERE WAS ALSO ANOTHER MALE WENT

12 BY THE NAME OF RONALD FREEMAN. HE WAS ON THE PORCH

13 ALONG WITH ANTHONY HODGES IN THE GRAY SWEATSHIRT.

14 YOUR HONOR, AS DE LEE GOT OUT OF THE VEHICLE,

15 THEY ALL ENTERED 5606, THE PORCH AREA. HE PULLED OUT

16 A CLEAR BAGGIE, HE REMOVED GOLF BALL SIZED OBJECTS

17 FROM THAT BAGGIE.

18 THE COURT: WHO WAS THIS? DE LEE?

19 THE WITNESS: YES, IT WAS, YOUR HONOR.

20 MR. SCIOLLA: YOUR HONOR, IF I MAY, I'M

21 SORRY, I DON'T WANT TO INTERRUPT. WAS THE

22 TESTIMONY THAT MR. TORAIN CAME BACK AT THAT

23 TIME WITH THE OTHER TWO MEN? *check that*

24 MS. ROBINSON: I DON'T THINK SO.

25 MR. SCIOLLA: OKAY. IT WAS UNCLEAR. I

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SHEET 7 PAGE 22

1 Off. Brian Monaghan - Direct 22
 2 JUST WANT TO MAKE CERTAIN THE RECORD'S CLEAR.
 3 THANK YOU.
 4 THE WITNESS: YOUR HONOR, HE HANDED THE
 5 OBJECTS, THE GOLF BALL SIZED OBJECTS TO MOON,
 6 FREEMAN, HODGES, AND DIGGS. EACH RECEIVED THE
 7 OBJECTS, YOUR HONOR. HE ALSO HAD IN HIS
 8 HAND.
 9 MR. MC MONAGLE: MOON, FREEMAN, HODGES,
 10 AND DIGGS?
 11 THE WITNESS: YES.
 12 YOUR HONOR, HE ALSO HAD IN HIS HAND A
 13 CLEAR BAGGIE. I COULD TELL THERE WAS GREEN
 14 TINTED PACKETS IN THIS BAGGIE. PUT IT IN HIS
 15 JACKET POCKET, YOUR HONOR.
 16 YOUR HONOR, FOR ABOUT, BETWEEN, LIKE,
 17 2:37 AND 2:55 YOUR HONOR, I OBSERVED ALL FOUR
 18 OF THOSE MALES, BLACK FEMALES AND BLACK
 19 MALES WOULD APPROACH, THEY WERE BOTH STANDING
 20 ON 5607, 5605, I BELIEVE HODGES WAS STANDING ON
 21 5607, DE LEE AND MOON WAS ON 5605, FREEMAN WAS
 22 WITH MOON, AND DE LEE AND DIGGS WAS STANDING
 23 THERE WITH THE MALE IN THE GRAY SHIRT, HODGES,
 24 YOUR HONOR. I OBSERVED NUMEROUS MALES AND
 25 FEMALES APPROACH THEM AT WHICH TIME,

PAGE 24

1 Off. Brian Monaghan - Direct 24
 2 DNE-7857 THAT WAS BEING OPERATED BY THE
 3 DEFENDANT SITTING WITH THE WHITE T-SHIRT WITH
 4 THE BEARD, YOUR HONOR, AND RIGHT BEHIND
 5 COUNSEL.
 6 MS. ROBINSON: INDICATING THE DEFENDANT
 7 RAYMOND HOWARD.
 8 THE WITNESS: YES. GAVE US A NAME OF
 9 HOWARD. HE PULLED UP TO THAT LOCATION,
 10 YOUR HONOR. HE WAS WITH THE MALE THAT IS
 11 SITTING TO THE FAR LEFT, YOUR HONOR, IN A WHITE
 12 DRESS SHIRT WITH THE BEARD, AND HE GAVE US THE
 13 NAME OF MAURICE GREY. THEY PULLED UP ON THAT
 14 LOCATION, YOUR HONOR, AT WHICH TIME THEY WALKED
 15 UP TO THE PORCH, 5605 WEST MASTER. THEY HAD A
 16 BRIEF CONVERSATION WITH DE LEE, AT WHICH TIME
 17 DE LEE REMOVED U.S. CURRENCY, YOUR HONOR, FROM
 18 HIS POCKETS. HE HANDED THE U.S. CURRENCY TO
 19 THE DEFENDANT HOWARD.
 20 BY MS. ROBINSON:
 21 Q. THEN WHAT DID THE MALES DO?
 22 A. AT THAT TIME, YOUR HONOR, IF I CAN REFER --
 23 OKAY. ABOUT 3:13, DE LEE AND FREEMAN GOT INTO THE
 24 BUICK. THEY LEFT THE AREA. ABOUT 3:17 A MARKED
 25 VEHICLE CAME TO THE INTERSECTION OF 56TH AND MASTER

PAGE 23

1 Off. Brian Monaghan - Direct 23
 2 YOUR HONOR, THEY WOULD ACCEPT U.S. --
 3 MR. GIOVANNI: APPROACH WHO? ALL OF
 4 THEM?
 5 THE WITNESS: ALL DIFFERENT TIMES.
 6 THE COURT: DIFFERENT ONES AT DIFFERENT
 7 TIMES?
 8 THE WITNESS: YES, YOUR HONOR.
 9 THE COURT: HOW CLOSE WERE THEY STANDING
 10 TO EACH OTHER?
 11 THE WITNESS: ONE WOULD STAND AT THE TOP
 12 OF THE STEPS. AS SOON AS HE MADE THE SALE,
 13 HE WOULD BACK AWAY, SOMEONE ELSE WOULD COME UP,
 14 AND THE OTHER ONE WOULD MAKE THE SALE.
 15 THE COURT: A ROTATING LINE?
 16 THE WITNESS: NOT A ROTATING --
 17 THE COURT: NOT IN, LIKE, ROTATION?
 18 THE WITNESS: NOT BEING IN LINE,
 19 JUST STANDING OFF. WHEN ONE WOULD SELL, THE
 20 OTHER ONE WOULD WALK UP AND SELL, ALSO.
 21 THE COURT: OKAY.
 22 THE WITNESS: AND THEY SOLD TO NUMEROUS
 23 BLACK MALES AND FEMALES, YOUR HONOR.
 24 YOUR HONOR, ABOUT 3:05, P.M. I OBSERVED
 25 A GREEN BONNEVILLE WITH A PENNSYLVANIA TAG

PAGE 25

1 Off. Brian Monaghan - Direct 25
 2 STREET WITH HIS LIGHTS ON AND HE HAD A SIREN,
 3 YOUR HONOR, AT WHICH TIME I OBSERVED HOWARD AND DIGGS,
 4 WHO WAS ON THE PORCH AT 5605, THEY JUMPED INTO THE
 5 GREEN BONNEVILLE, YOUR HONOR, AND LEFT AT A HIGH RATE
 6 OF SPEED. THEY WERE LATER STOPPED, I BELIEVE IT WAS
 7 THE 14 OR 1300 BLOCK OF ALLISON STREET, YOUR HONOR.
 8 THE COURT: THE MARKED VEHICLE, WAS THAT
 9 COMPLETELY INDEPENDENT, JUST HAPPENED TO BE IN
 10 THE AREA?
 11 THE WITNESS: I DON'T KNOW.
 12 THE COURT: ALL RIGHT. HAD NOTHING TO DO
 13 WITH YOUR SURVEILLANCE AND INVESTIGATION.
 14 THE WITNESS: YOUR HONOR, THE MALE HODGES
 15 GOT INTO THE PLYMOUTH BREEZE AND LEFT THE
 16 AREA WITH A BLACK FEMALE WHERE HE WAS LATER
 17 STOPPED AT 56TH AND MARKET STREET BY OFFICERS.
 18 ABOUT 3:27 I OBSERVED DARNELL DE LEE,
 19 RONALD FREEMAN, THEY RAN SOUTHBOUND ON 56TH
 20 STREET, ON THE PORCH. AND AS THEY RAN UP ONTO
 21 THE PORCH, HE HOLLORED, "YO, THE COPS DOWN AND
 22 THEY'RE COMING," AT WHICH TIME I OBSERVED
 23 MOON, DE LEE, FREEMAN, TILLMAN, AND A MALE WENT
 24 BY THE NAME OF PICANOT, A JUVENILE,
 25 YOUR HONOR, THEY ALL RAN FROM THAT PORCH.

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SHEET 8 PAGE 26

PAGE 28

1 Off. Brian Monaghan - Direct 26
 2 THEY RAN NORTHBOND ON ITHAN STREET,
 3 YOUR HONOR. I NOTIFIED BACKUP OFFICERS OF THE
 4 DESCRIPTION AND WHERE THEY WERE RUNNING AT.
 5 BY MS. ROBINSON:
 6 Q. AND DID YOU PARTICIPATE IN THE ARRESTS OF ANY
 7 OF THOSE INDIVIDUALS?
 8 A. NO, I DID NOT.
 9 Q. AND PROCEEDING ON TO YOUR PARTICIPATION,
 10 OFFICER MONAGHAN, WHAT WAS THE NEXT THING THAT YOU
 11 DID?
 12 A. AFTER I ASCERTAINED MOST OF THE MALES WERE
 13 PRESENT, I SECURED -- WELL, I HAD SEARCH AND SEIZURE
 14 WARRANTS, WARRANT NO. 99025 FOR THE PROPERTY OF 5605,
 15 99026 FOR THE PROPERTY OF 5607, 99027 FOR THE PROPERTY
 16 AT 5609 WEST MASTER STREET. YOUR HONOR, INSIDE 5605 A
 17 FEMALE BY THE NAME OF GLENDA DE LEE WAS STOPPED AND
 18 DETAINED, YOUR HONOR.
 19 Q. DID YOU LATER ASCERTAIN HER RELATIONSHIP TO THE
 20 CO-DEFENDANT, DARNELL DE LEE?
 21 A. IT WAS HIS MOTHER.
 22 Q. DID YOU ACTUALLY GO THROUGH THIS PROPERTY,
 23 OFFICER MONAGHAN?
 24 A. YES, I DID.
 25 Q. AND WHAT, IF ANYTHING, DID YOU DO WITH RESPECT

1 Off. Brian Monaghan - Direct 28
 2 PACKETS, THE FOURTH BAGGIE CONTAINED 30
 3 CLEAR TINTED ZIP-LOCK PACKETS, FOR A TOTAL OF
 4 177 PACKETS, YOUR HONOR. YOUR HONOR, THAT WAS
 5 PLACED ON PROPERTY RECEIPT 2298950.
 6 YOUR HONOR, INSIDE THAT PROPERTY I
 7 RECOVERED ONE BOX CONTAINING NUMEROUS LIVE .45
 8 CALIBER AND .40 CALIBER BULLETS. THAT WAS
 9 PLACED ON PROPERTY RECEIPT 2298592, AND ONE
 10 CLEAR BAGGIE, I BELIEVE THERE WAS A SYMBOL ON
 11 IT, CONTAINED NEW AND USED GREEN TINTED
 12 ZIP-LOCK PACKETS. YOUR HONOR, I ALSO RECOVERED
 13 FROM THAT BEDROOM, YOUR HONOR, THERE WAS A
 14 RECEIPT FROM THE FIRST JUDICIAL DISTRICT OF
 15 PENNSYLVANIA IN THE NAME OF DARNELL DE LEE.
 16 THERE WAS ALSO A LETTER ADDRESSED -- THERE WAS
 17 A LETTER ADDRESSED TO DARNELL DE LEE FROM THE
 18 LAW OFFICE OF GERALD STEIN AND A WADE CABLE
 19 BILL WAS IN THE NAME OF GLENDA DE LEE THAT I
 20 FOUND DOWNSTAIRS.
 21 BY MS. ROBINSON:
 22 Q. DID YOU AT SOME POINT OBTAIN A KEY FOR THAT
 23 PROPERTY?
 24 A. YES, I DID. I BELIEVE IT WAS POLICE OFFICER
 25 REYNOLDS THAT GAVE A KEY, THE KEY THAT WAS RECOVERED

PAGE 27

PAGE 29

1 Off. Brian Monaghan - Direct 27
 2 TO KEYS? WERE KEYS OBTAINED TO THIS PROPERTY?
 3 A. I WAS GIVEN A KEY -- WELL, AT THIS TIME WHEN I
 4 WENT THROUGH THE PROPERTY, WE HAD TO ENTER BY FORCE
 5 AFTER KNOCKING AND ANNOUNCING.
 6 THE COURT: 5605?
 7 THE WITNESS: 5606, YOUR HONOR.
 8 YOUR HONOR, I WENT UP TO THE REAR BEDROOM
 9 OF 5605. THERE WAS A PADLOCK ON THE DOOR.
 10 YOUR HONOR, ALONG WITH HELP FROM OTHER MEMBERS
 11 OF THE FIELD UNIT, WE OPENED UP THE DOOR OF THE
 12 REAR BEDROOM.
 13 INSIDE THE CLOSET, YOUR HONOR, THERE WAS
 14 A PADLOCK ON THE DOOR, WE HAD TO OPEN UP -- WE
 15 DIDN'T HAVE A KEYPAT AT THAT TIME. YOUR HONOR,
 16 INSIDE THE CLOSET I FOUND ONE BLUE BALLISTIC
 17 VEST. YOUR HONOR THAT WAS PLACED ON PROPERTY
 18 RECEIPT 2298591. YOUR HONOR, ON THE DRESSER
 19 DRAWER THERE WAS A CLEAR BAGGIE. INSIDE THAT
 20 BAGGIE, YOUR HONOR, THERE WAS FOUR CLEAR
 21 BAGGIES THAT WAS INSIDE IN A KNOT, YOUR HONOR,
 22 THEY WERE INDIVIDUALLY TIED, YOUR HONOR. ONE
 23 BAGGIE CONTAINED 63 GREEN TINTED ZIP-LOCK
 24 PACKETS, ANOTHER BAG, 53 ZIP-LOCK PACKETS,
 25 ANOTHER BAG CONTAINED 31 CLEAR, TINTED ZIP-LOCK

1 Off. Brian Monaghan - Direct 29
 2 AT THE TIME OF ARREST OF DARNELL DE LEE. AND I TRIED
 3 THE KEY, YOUR HONOR, AND THE KEY FIT THE DOOR, 5605.
 4 ALSO, THERE WAS A PADLOCK KEY THAT FIT THE PADLOCK.
 5 YOUR HONOR, I WAS ABLE TO OPEN THE PADLOCK. IT WAS
 6 STILL LOCKED WHEN WE BUSTED THROUGH THE BEDROOM DOOR,
 7 AND IT OPENED UP THE PADLOCK OF THAT DOOR.
 8 Q. AND DO YOU KNOW WHERE THE PADLOCK KEY WAS
 9 RECOVERED FROM?
 10 A. I'M NOT SURE.
 11 Q. NOW, MOVING ON TO THE NEXT PROPERTY, 5607
 12 MASTER STREET, DID YOU PARTICIPATE IN THAT SEARCH OF
 13 THAT PROPERTY?
 14 A. I WAS THERE BUT I DIDN'T PARTICIPATE IN THE
 15 SEARCH.
 16 Q. AND WHO ACTUALLY DID THAT SEARCH?
 17 A. POLICE OFFICER GALAZKA, G-A-L-A-Z-K-A, BADGE
 18 NO. 7481.
 19 Q. AND DID YOU, MOVING ON, HANDLE THE SEARCH AT
 20 5609 MASTER STREET?
 21 A. YES, I DID. AFTER I WAS FINISHED WITH 5605,
 22 5609 WAS SECURED, YOUR HONOR. IT APPEARED TO BE AN
 23 ABANDONED HOUSE. NO FURNITURE, TRASH ALL AROUND ON
 24 THE PROPERTY, YOUR HONOR, NO LOCKS ON THE DOORS, OR
 25 ANYTHING. INSIDE I RECOVERED FIVE GREEN TINTED

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SHEET 9 PAGE 30

1 Off. Brian Monaghan - Direct 30
 2 ZIP-LOCK PACKETS, CONTAINED A GREEN WEED AND SEED
 3 SUBSTANCE, ALLEGED MARIJUANA. I PLACED THAT ON
 4 PROPERTY RECEIPT 2308203, AND NUMEROUS NEW AND UNUSED
 5 GREEN TINTED ZIP-LOCK PACKETS AND THREE BOXES OF
 6 VARIOUS LIVE ROUNDS THAT WAS PLACED ON PROPERTY
 7 RECEIPT 2308204.
 8 Q. NOW, DID YOU HAVE OCCASION TO RECEIVE
 9 INFORMATION FROM OFFICER REYNOLDS AND ANY PHYSICAL
 10 PROPERTY IN RELATION TO THE ADDRESS 1628 NORTH 55TH
 11 STREET, APARTMENT 2?
 12 A. YES. ABOUT 3:55 I WENT TO THAT AREA WITH
 13 POLICE OFFICER KELLY, 1658 NORTH 55TH STREET. THE
 14 MIDDLE APARTMENT WAS BEING SECURED BY POLICE OFFICER
 15 WALKER, YOUR HONOR. HE WAS STANDING IN THE HALLWAY OF
 16 THAT PROPERTY, YOUR HONOR. I WAS GIVEN A KEY AT THAT
 17 TIME BY POLICE OFFICER REYNOLDS THAT HE RECOVERED FROM
 18 THE DEFENDANT KAREEM TORAIN AFTER HE WAS STOPPED AND
 19 ARRESTED. YOUR HONOR, THAT KEY OPENED UP THE FRONT
 20 DOOR OF 1628 NORTH 55TH STREET. IT ALSO OPENED UP THE
 21 DOOR, IT WAS THE MIDDLE ROOM, YOUR HONOR, OF THAT
 22 PROPERTY, FIRST FLOOR, MIDDLE ROOM.
 23 YOUR HONOR, I SECURED SEARCH AND SEIZURE
 24 WARRANT NO. -- IF I CAN REFER TO MY NOTES, *monaghan*
 25 YOUR HONOR -- SEARCH AND SEIZURE WARRANT NO. 99028. *hardhat*

PAGE 31

1 Off. Brian Monaghan - Direct 31
 2 YOUR HONOR, I EXECUTED THAT WARRANT AT 1 A.M. ON THE
 3 5TH THAT WOULD BE FRIDAY, THE 5TH. YOUR HONOR,
 4 AFTER EXECUTING IT, I RECOVERED FROM INSIDE THAT
 5 PROPERTY, WHICH WAS INSIDE THE BOX SPRING AND
 6 MATTRESS, LAYING ON THE BED, YOUR HONOR, IT WAS A
 7 CANTILEY SAFE. INSIDE THERE WAS AN AMBER PILL BOTTLE,
 8 WHITE TOP. I PLACED IT ON PROPERTY RECEIPT 2308224.
 9 ALSO, YOUR HONOR, IN THAT BOX SPRING, THREE
 10 CLEAR BAGGIES TIED IN A KNOT AT THE TOP, YOUR HONOR,
 11 AND ALL TOGETHER -- IT WAS AN OFF-WHITE CHUNKY
 12 SUBSTANCE, ALLEGED CRACK COCAINE INSIDE, YOUR HONOR,
 13 FOR A TOTAL OF -- YOUR HONOR, I PUT DOWN 17 GRAMS, BUT
 14 I'M NOT SURE OF THE GRAMS AT THIS TIME. THAT'S WHAT
 15 WE MEASURED IT OUT TO BE, YOUR HONOR, IN OUR
 16 HEADQUARTERS. AND IT WAS PLACED ON PROPERTY RECEIPT
 17 2308223.
 18 Q. NOW, DID YOU HAVE OCCASION TO GO BACK TO YOUR
 19 HEADQUARTERS AND START TO PROCESS ALL THE DIFFERENT
 20 ITEMS THAT HAD BEEN RECOVERED BY YOURSELF AS WELL AS
 21 YOUR FELLOW OFFICERS INVOLVED IN THE ARRESTS AND
 22 SEIZURES FROM THESE HOMES AND DEFENDANTS?
 23 A. YES, I DID. I FOUND OUT INSIDE MY HEADQUARTERS
 24 THAT THE DEFENDANT SITTING IN THE BACK WITH THE GRAY
 25 SHIRT, HE WAS NEVER LOCATED, YOUR HONOR, AS HE RAN

PAGE 32

1 Off. Brian Monaghan - Direct 32
 2 NORTHBOUND ON ITHAN STREET, YOUR HONOR. HE WAS LOST
 3 IN THE AREA.
 4 Q. AND THAT WOULD BE THE DEFENDANT MOON?
 5 A. YES.
 6 Q. DO YOU KNOW WHEN HE WAS ARRESTED?
 7 A. HE WAS ARRESTED ON THE 10TH, YOUR HONOR, INSIDE
 8 OF 1401 ARCH STREET WHILE HE WAS AT HIS PROBATION
 9 OFFICER'S OFFICE.
 10 Q. DO YOU KNOW WHETHER OR NOT THE DEFENDANT WAS
 11 RELEASED AT THIS POINT DURING THE PROCESSING OF THIS
 12 CASE?
 13 A. YOUR HONOR PLEASES, POLICE OFFICER FRANCIS, HE
 14 STOPPED THE DEFENDANT GREY. INSIDE THE VEHICLE,
 15 YOUR HONOR --
 16 MR. SCIOILA: YOUR HONOR, I WOULD OBJECT.
 17 I DON'T KNOW WHAT RELEVANCE --
 18 THE COURT: DOES IT MATTER?
 19 BY MS. ROBINSON:
 20 Q. WELL, DID YOU HAVE OCCASION TO HAVE A
 21 CONVERSATION WITH DEFENDANT GREY AT SOME POINT DURING
 22 JANUARY 4TH?
 23 MR. STERN: I OBJECT.
 24 THE COURT: OVERRULED.
 25 CONVERSATION HE HAD, THAT THIS OFFICER

PAGE 33

1 Off. Brian Monaghan - Direct 33
 2 HAD WITH THE DEFENDANT.
 3 THE WITNESS: YOUR HONOR, HE WAS RELEASED
 4 FROM THE 19TH DISTRICT. HE CALLED OUR
 5 HEADQUARTERS. HE WANTED HIS MONEY BACK.
 6 BY MS. ROBINSON:
 7 Q. DID YOU TALK TO DEFENDANT GREY?
 8 A. I DID NOT. MY SUPERVISOR DID. BUT I WAS RIGHT
 9 THERE STANDING NEXT TO HIM WHEN HE CALLED.
 10 Q. AND WHAT HAPPENED?
 11 A. YOUR HONOR, WE TOLD HIM HE COULD COME DOWN TO
 12 OUR HEADQUARTERS TO GET HIS MONEY, YOUR HONOR.
 13 THE COURT: AND THEN HE WAS ARRESTED;
 14 RIGHT?
 15 THE WITNESS: YES, YOUR HONOR.
 16 THE COURT: OKAY. I FIGURED THAT OUT.
 17 THE WITNESS: YOUR HONOR, WHEN POLICE
 18 OFFICER FRANCIS HANDED ME THE EVIDENCE BACK, IT
 19 WAS SEALED, THAT HE RECOVERED FROM THE
 20 DEFENDANT. INSIDE THAT EVIDENCE BAG,
 21 YOUR HONOR, THAT I DIDN'T KNOW AT THE TIME
 22 UNTIL I GOT BACK TO HEADQUARTERS, THERE WAS A
 23 CLEAR BAGGIE WITH A 112 XANEX, AND 14 YELLOW
 24 TINTED ZIP-LOCK PACKETS.
 25 BY MS. ROBINSON:

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SHEET 10 PAGE 34

1 Off. Brian Monaghan - Direct 34
 2 Q. HOW MUCH MONEY WAS IN THERE?
 3 A. IF I CAN REFER TO MY NOTES. I BELIEVE, LIKE,
 4 \$68.
 5 Q. DID THE DEFENDANT, IN FACT, APPEAR TO CLAIM HIS
 6 \$68?
 7 A. YES. IT WAS PLACED ON PROPERTY RECEIPT
 8 2308220. YES. HE DID WITH HIS FATHER AT ABOUT 10
 9 P.M. THAT NIGHT, YOUR HONOR, WHEN HE WAS ARRESTED.
 10 THE COURT: WHICH DEFENDANT WAS THIS?
 11 DEFENDANT GREY?
 12 THE WITNESS: YES, YOUR HONOR. HE'S
 13 SITTING ON THE FAR LEFT IN THE WHITE SHIRT.
 14 MS. ROBINSON: IF I MAY JUST HAVE ONE
 15 MOMENT.

(PAUSE)

16
 17
 18
 19 MS. ROBINSON: I HAVE NO MORE QUESTIONS.
 20 THE COURT: OKAY.

CROSS-EXAMINATION

BY MR. CAMPBELL:

21
 22
 23
 24 Q. OFFICER, AM I CORRECT YOU CONDUCTED THE
 25

PAGE 36

1 Off. Brian Monaghan - Cross 36
 2 THE COURT: THAT'S FINE. WHEN YOU CHECK
 3 YOUR PACKAGE, ASSUMING YOU FIND THEM, KEEP
 4 THEM AND GIVE THEM TO THE D.A. —
 5 THE WITNESS: OKAY.
 6 BY MR. CAMPBELL:
 7 Q. AND YOU WERE USING VISUAL AIDS, I THINK YOU
 8 SAID?
 9 A. ON THE 2ND.
 10 Q. ON THE 2ND.
 11 WAS YOUR SURVEILLANCE LOCATION THE SAME ON EACH
 12 DATE?
 13 A. NO. NO, IT WAS NOT.
 14 Q. SO LET'S START WITH THE 2ND. ON THE 2ND YOU
 15 USED VISUAL AIDS.
 16 APPROXIMATELY HOW FAR WERE YOU FROM THE
 17 PROPERTY AT 5605?
 18 A. DIRECTLY RIGHT ACROSS THE STREET.
 19 THE COURT: WERE YOU IN A CONFIDENTIAL
 20 LOCATION ANY OF THE THREE DAYS?
 21 THE WITNESS: NO, YOUR HONOR.
 22 THE COURT: YOU CAN TELL THEM EXACTLY
 23 WHERE YOU WERE EACH DAY?
 24 THE WITNESS: YES, YOUR HONOR.
 25 THE COURT: ALL RIGHT.

PAGE 35

1 Off. Brian Monaghan - Cross 35
 2 SURVEILLANCE ON JANUARY 2ND, 3RD, AND 4TH?
 3 A. THAT'S CORRECT.
 4 Q. ALL RIGHT. AND THEN ON THE 5TH YOU EXECUTED
 5 SEARCH AND SEIZURE WARRANTS; RIGHT?
 6 A. ON THE 4TH EXECUTED SEARCH AND SEIZURE WARRANTS.
 7 Q. ON THE 4TH. I'M SORRY.
 8 NOW, DURING YOUR SURVEILLANCES, YOU WERE ALWAYS
 9 IN THE COMPANY OF YOUR BROTHER OFFICER SEAN KELLY?
 10 A. THAT'S CORRECT.
 11 Q. WAS HE THE RECORDER, I TAKE IT?
 12 A. WHAT DO YOU MEAN BY "RECORDER"? *What about the*
 13 Q. ALL RIGHT, WELL, WAS ANYONE -- DID YOU TAKE
 14 CONTEMPORANEOUS NOTES?
 15 A. YES, I DID.
 16 Q. ALL RIGHT. AND DO YOU HAVE THOSE NOTES WITH
 17 YOU TODAY, BY THE WAY?
 18 A. NO, I DON'T. NOT TODAY.
 19 MR. CAMPBELL: ALL RIGHT. I WOULD JUST
 20 ASK THE NOTES BE MADE AVAILABLE AS PART OF
 21 DISCOVERY.
 22 THE COURT: HAVE THOSE NOTES BEEN
 23 PRESERVED?
 24 THE WITNESS: I'M NOT SURE, YOUR HONOR.
 25 I'LL HAVE TO CHECK MY PACKAGE THAT I HAVE.

PAGE 37

1 Off. Brian Monaghan - Cross 37
 2
 3 BY MR. CAMPBELL:
 4 Q. WHERE EXACTLY WERE YOU?
 5 A. ON THE 2ND I WAS PARKED RIGHT ACROSS THE
 6 STREET, ON THE OPPOSITE SIDE OF THE STREET IN FRONT OF
 7 5605. ON THE 3RD AND 4TH I WAS PARKED ON THE
 8 NORTHEAST CORNER, INSIDE OUR VEHICLE, OF 56TH AND
 9 MASTER STREET.
 10 Q. OKAY. WINDOWS WERE ROLLED UP, I TAKE IT?
 11 A. YES.
 12 Q. OKAY. I'M TALKING ABOUT THE 2ND?
 13 A. YES.
 14 MR. CAMPBELL: ALL RIGHT. COURT'S
 15 INDULGENCE FOR ONE MOMENT.
 16
 17 (PAUSE)
 18
 19 BY MR. CAMPBELL:
 20 Q. AND YOU STATED THAT ON THE SECOND YOU SAW
 21 MR. RODGES INVOLVED IN NUMEROUS TRANSACTIONS, YOU PUT
 22 IT?
 23 A. YES, I DID.
 24 Q. OBJECTS IN EXCHANGE FOR U.S. CURRENCY?
 25 A. THAT'S CORRECT.

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SHEET 11 PAGE 38

PAGE 40

1 Off. Brian Monaghan - Cross 38
 2 Q. ON NONE OF THOSE OCCASIONS WERE YOU ABLE TO SEE
 3 WHAT THE SMALL OBJECTS WERE; IS THAT CORRECT?
 4 A. NO. I COULDN'T TELL AT THAT TIME.
 5 Q. OKAY. AND YOU COULDN'T TELL WHAT THE
 6 DENOMINATIONS WERE ON THE BILLS?
 7 A. NO, I COULD NOT.
 8 Q. AND YOU COULD NOT HEAR ANY CONVERSATIONS
 9 BETWEEN MR. HODGES AND ANYONE ELSE ON THAT DAY; IS
 10 THAT CORRECT?
 11 A. THAT'S CORRECT.
 12 Q. WOULD YOU SAY ABOUT THE SAME THING ABOUT YOUR
 13 OBSERVATIONS ON THE 3RD AND THE 4TH WITH RESPECT TO
 14 MR. HODGES?
 15 A. I COULD NOT HEAR BUT I COULD SEE WHAT THEY WERE
 16 SELLING.
 17 Q. WHAT EXACTLY DID YOU SEE? WHITE OBJECTS?
 18 A. GREEN OBJECTS.
 19 Q. GREEN OBJECTS. OKAY.
 20 AND YOU STILL COULDN'T TELL THE DENOMINATIONS
 21 ON THE BILLS ON THE 3RD OR THE 4TH?
 22 A. NO. I COULDN'T TELL.
 23 Q. ALL RIGHT. AND AM I CORRECT ON THE THIRD YOU
 24 SAW ONLY ONE EXCHANGE INVOLVING MR. HODGES?
 25 A. ON THE 3RD?

1 Off. Brian Monaghan - Cross 40
 2
 3 BY MR. CAMPBELL:
 4 Q. OFFICER, AFTER THE SEARCH AND SEIZURE WARRANT
 5 WAS EXECUTED AT 5605, YOU STATED THAT YOU FOUND ALL
 6 KINDS OF CONTRABAND IN THE SECOND FLOOR BEDROOM; IS
 7 THAT CORRECT?
 8 A. OF 5605?
 9 Q. YES.
 10 A. YES.
 11 Q. AND YOU FOUND PROOF OF RESIDENCE FOR GLENDA
 12 DE LEE?
 13 A. THAT WAS DOWNSTAIRS. I BELIEVE IT WAS A WADE
 14 CABLE BILL.
 15 Q. YOU FOUND NO PROOF OF RESIDENCE FOR MR. HODGES;
 16 IS THAT RIGHT?
 17 A. THAT'S RIGHT.
 18 Q. IN FACT, TO YOUR KNOWLEDGE, NO PROOF OF
 19 RESIDENCY WAS RECOVERED FOR MR. HODGES AT 5607 OR
 20 5609, EITHER; IS THAT RIGHT?
 21 A. THAT'S CORRECT.
 22 MR. CAMPBELL: THAT'S ALL I HAVE.
 23 THE COURT: OKAY. THANK YOU.
 24 MR. SCIOLLA?
 25 BY MR. SCIOLLA:

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PAGE 41

1 Off. Brian Monaghan - Cross 39
 2 Q. YES, AT 2:22 P.M.
 3 A. THAT'S CORRECT. WHEN HE CAME OUT OF THE HOUSE.
 4 Q. OKAY. AND ALSO AT THE TIME, I MAY HAVE ASKED
 5 YOU ALREADY, YOU COULDN'T HEAR ANY CONVERSATION
 6 BETWEEN MR. HODGES AND ANYONE ELSE; RIGHT?
 7 A. NO, I COULDN'T.
 8 Q. AND, OFFICER, YOU MENTIONED THAT ON THE
 9 4TH HE OPENED A CAR DOOR WITH A KEY; IS THAT CORRECT?
 10 A. HE OPENED HIS HOUSE WITH A KEY.
 11 Q. HIS HOUSE WITH A KEY.
 12 DID YOU EVER RECOVER THAT KEY?
 13 A. YES, I DID. ONE OF THE ARRESTING OFFICERS DID,
 14 YES.
 15 Q. WAS THAT IN YOUR PRESENCE?
 16 A. NO, IT WAS NOT.
 17 MR. CAMPBELL: I WOULD ASK THAT BE
 18 STRICKEN. THE QUESTION WAS WHETHER HE
 19 RECOVERED THE KEY.
 20 THE COURT: OVERRULED. I THOUGHT THE
 21 TESTIMONY WAS PRETTY CLEAR, SOMEONE RECOVERED,
 22 SUBSEQUENTLY GAVE IT TO YOU. THAT'S HOW HE
 23 HAD THE KEY, HE COULD CHECK IT AGAINST THE
 24 PADLOCK THAT REMAINED LOCKED WHEN HE BROKE THE
 25 DOOR DOWN.

1 Off. Brian Monaghan - Cross 41
 2 Q. GOOD MORNING, OFFICER MONAGHAN. HOW ARE YOU?
 3 A. GOOD MORNING.
 4 Q. THESE SURVEILLANCES WERE THE 2ND, 3RD, AND 4TH
 5 OF JANUARY?
 6 A. THAT'S CORRECT.
 7 Q. AND THE 1ST OF JANUARY YOU DIDN'T DO ANY
 8 SURVEILLANCE, YOU WERE IN THE MUMMER'S DAY PARADE;
 9 RIGHT?
 10 A. NO.
 11 Q. YOU DIDN'T SEE MR. TORAIN ON THE 2ND OR THE
 12 3RD; CORRECT?
 13 A. THAT'S CORRECT.
 14 Q. HE DIDN'T ENTER THIS PLAY UNTIL THE 4TH?
 15 A. THAT'S CORRECT.
 16 Q. ON THAT DATE HE DRIVES UP, THERE'S A BRIEF TWO
 17 OR THREE MINUTES STAY AT THE CORNER, MR. DE LEE GETS
 18 IN THE CAR AND EXITS THE CAR?
 19 A. THAT'S CORRECT.
 20 Q. AND THEN LATER THAT SAME DAY SOMEBODY, OFFICER
 21 REYNOLDS, I GUESS IT IS, MAKES A CAR STOP OF
 22 MR. TORAIN?
 23 A. THAT'S CORRECT.
 24 Q. AND IN THAT CAR STOP HE TAKES FROM MR. TORAIN A
 25 SET OF KEYS, ONE OF WHICH APPARENTLY SUBSEQUENTLY IS

SHEET 12 PAGE 42

PAGE 44

Off. Brian Monaghan - Cross 42
 PROVEN TO BE CAPABLE OF PROVIDING ACCESS TO 1628 NORTH
 55TH STREET; CORRECT?

A. CORRECT.

Q. THE CAR STOP THAT TOOK PLACE, WHICH I DON'T
 BELIEVE YOU TESTIFIED TO ON DIRECT, BUT THE CAR STOP
 OF MR. TORAIN BY OFFICER REYNOLDS, THAT DIDN'T
 DISCLOSE OR DISLODGE ANY DRUGS OR CONTRABAND; IS THAT
 CORRECT?

MS. ROBINSON: OBJECTION.

THE COURT: WELL, IF HE KNOWS, OF COURSE,
 HE CAN ANSWER.

THE WITNESS: NO DRUGS, JUST U.S.

CURRENCY.

BY MR. SCIOLLA:

Q. ABOUT 50 BUCKS?

A. I BELIEVE SO. A PAGER AND A NEXTEL PHONE, I
 BELIEVE.

Q. AND THEN HE'S TAKEN BACK TO 1628 NORTH 55TH
 STREET, AT WHICH TIME THE PROPERTY IS SECURED FOR YOU
 TO OBTAIN A WARRANT WHICH YOU HAD SUBSEQUENTLY
 OBTAINED ABOUT 1:00 IN THE MORNING; IS THAT RIGHT?

A. HE'S TAKEN INTO CUSTODY. I'M NOT SURE IF HE
 WAS TAKEN BACK TO THAT PROPERTY AT THAT TIME.

Q. BUT THE PROPERTY IS SECURED WHILE YOU WENT TO

Off. Brian Monaghan - Cross 44

Q. OFFICER, I REPRESENT MAURICE GREY.
 ACCORDING TO YOUR TESTIMONY AND PAPERWORK, THE
 ONLY TIME THAT YOU OBSERVED MY CLIENT DURING YOUR
 SURVEILLANCE WAS ON JANUARY 4TH, 2001; ISN'T THAT
 CORRECT?

A. THAT'S CORRECT.

Q. AND YOU ONLY OBSERVED HIM IN 5605, 3:17 P.M.;
 ISN'T THAT CORRECT?

A. I BELIEVE IT WAS.

Q. AND THE ONLY THING YOU OBSERVED HIM DOING THAT
 DAY WAS, ONE, SITTING IN A BONNEVILLE; IS THAT
 CORRECT?

A. HE WAS EXITING THE BONNEVILLE.

Q. HE EXITED THE BONNEVILLE. HE STOOD ON THE
 PORCH OF 5605?

A. THAT'S CORRECT.

Q. AND YOU SAW THE DEFENDANT HOWARD HAVE A
 CONVERSATION WITH SOMEBODY ELSE, ISN'T THAT A FACT?

A. DE LEE. YES.

Q. MY CLIENT WAS JUST STANDING THERE, IS THAT A
 FACT?

A. THAT'S CORRECT.

Q. HE NEVER RECEIVED ANY MONEY, IS THAT A FACT?

A. THAT'S CORRECT.

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PAGE 45

Off. Brian Monaghan - Cross 43
 APPLY FOR A WARRANT?

A. THAT'S CORRECT.

Q. AND THEN EXECUTION OF THAT WARRANT DISCLOSES
 TWO VIALS AND THREE BAGGIES OF THE CRACK COCAINE
 SUBSTANCE?

A. THAT'S CORRECT.

Q. AND THE 1628 NORTH 55TH STREET PROPERTY, THAT'S
 THE SAME PROPERTY THAT YOU TESTIFIED TO THAT EARLIER
 ON THE 4TH THREE OTHER MALES WENT TO THAT PROPERTY?

A. THAT'S CORRECT.

Q. AND AT THAT POINT IN TIME THERE'S NO TESTIMONY
 THAT ANYONE COULD SEE WHERE THEY WENT WITHIN THAT
 PROPERTY; IS THAT RIGHT?

A. I COULD NOT.

Q. AND THE DRUGS THAT ARE FOUND INSIDE THAT
 PROPERTY ARE FOUND INSIDE A MIDDLE ROOM ON THE FIRST
 FLOOR; CORRECT?

A. CORRECT.

Q. AND THERE'S NO IDENTIFICATION, DOCUMENTATION
 WITH REGARD TO MR. TORAIN FOUND IN THAT PROPERTY?

A. THAT'S CORRECT.

MR. SCIOLLA: I HAVE NO FURTHER

QUESTIONS.

BY MR. STERN:

Off. Brian Monaghan - Cross 45

Q. DURING THAT 12 MINUTES OF OBSERVATION, YOU
 NEVER SAW HIM ENGAGE IN ANY TRANSACTIONS; IS THAT
 CORRECT?

A. THAT'S CORRECT.

Q. YOU NEVER OBSERVED ANY BAG OR DRUG
 PARAPHERNALIA ON HIM DURING THAT?

A. NO, I DID NOT.

Q. NEXT THING YOU SEE HIM DOING IS JUST STANDING
 ON THE CORNER; ISN'T THAT CORRECT?

A. NO. I BELIEVE HE LEFT AND GOT INTO THE
 BONNEVILLE.

Q. SO HE GOT OFF THE PORCH AND GOT IN THE
 BONNEVILLE, IS THAT YOUR TESTIMONY?

A. YES, IT IS.

Q. AND THEN THE NEXT THING YOU KNOW, THE CAR'S
 JUST SPEEDING OFF?

A. AFTER THE OFFICER ACTIVATED HIS LIGHTS IN THE
 MIDDLE OF THE BLOCK AND MADE A U-TURN, THEY GOT IN A
 VEHICLE, LEFT THE AREA.

Q. MY CLIENT'S WHAT? A PASSENGER, NOW?

A. YES, HE WAS.

Q. ALWAYS BEEN THE PASSENGER?

A. YES, HE WAS.

Q. UP TO THIS POINT YOU DIDN'T DETERMINE HIM DOING

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SHEET 13 PAGE 46

① Off. Brian Monaghan - Cross 46
 2 ANYTHING CRIMINAL IN NATURE, ISN'T THAT A FACT?
 3 MS. ROBINSON: OBJECTION.
 4 THE COURT: SUSTAINED.
 5 BY MR. STERN:
 6 Q. WHAT LAW DID YOU SEE HIM BREAK UP TO THAT POINT
 7 IN TIME?
 8 MS. ROBINSON: OBJECTION. CALLS FOR A
 9 CONCLUSION.
 10 THE COURT: SUSTAINED.
 11 BY MR. STERN:
 12 Q. UP TO THE POINT -- STRIKE THAT.
 13 DID YOU SEE THE VEHICLE BEING STOPPED?
 14 A. NO, I DID NOT.
 15 Q. AND YOU SAID EVENTUALLY BACK AT THE POLICE
 16 STATION, YOU SAID SOME NARCOTICS OR ALLEGED NARCOTICS
 17 WAS RECOVERED FROM MY CLIENT?
 18 A. YES, THEY WERE.
 19 Q. AND THEY WERE YELLOW TINTED PACKETS?
 20 A. I BELIEVE THEY WERE. YES.
 21 Q. AND YOU'RE AWARE THAT A SEARCH OF ALL THE REST
 22 OF THE HOUSE AND ALL THE OTHER -- REST OF THE HOUSE
 23 THERE WAS NO YELLOW TINTED PACKET?
 24 A. I'M AWARE.
 25 Q. EVERYTHING WAS A DIFFERENT COLOR?

PAGE 47

1 Off. Brian Monaghan - Cross 47
 2 MS. ROBINSON: OBJECTION. ASKED AND
 3 ANSWERED.
 4 THE COURT: OVERRULED. HE CAN ANSWER
 5 AGAIN.
 6 THE WITNESS: YES.
 7 THE COURT: AND YOU DIDN'T SEE ANY YELLOW
 8 PACKETS BEING EXCHANGED DURING YOUR THREE
 9 DAYS OF SURVEILLANCE, OFFICER?
 10 THE WITNESS: THAT'S CORRECT, YOUR HONOR.
 11 I COULDN'T TELL.
 12 MR. STERN: NO FURTHER QUESTIONS.
 13 THE COURT: HOW MANY PACKETS WERE THERE?
 14 MS. ROBINSON: FOURTEEN. AND I
 15 BELIEVE 112 KANEX.
 16 THE COURT: OKAY.
 17 MR. SPINA: MAY I, JUDGE?
 18 THE COURT: YOU MAY.
 19 BY MR. SPINA:
 20 Q. OFFICER, WHEN YOU SET UP YOUR SURVEILLANCE ON
 21 JANUARY 2ND, FROM THE PAPERWORK IT LOOKS LIKE YOU
 22 FIRST STARTED TAKING NOTES AT ABOUT 3:45 P.M.: IS THAT
 23 ACCURATE?
 24 A. YES. WHEN I FIRST SET UP, IT WAS A LITTLE BIT
 25 BEFORE.

PAGE 48

1 Off. Brian Monaghan - Cross 48
 2 Q. LOOKS LIKE YOU WERE ON THAT LOCATION UNTIL 5:15
 3 OR 5:30 BEFORE YOU END YOUR SURVEILLANCE THAT DAY?
 4 A. YES.
 5 Q. YOU WERE THERE ABOUT TWO HOURS THAT DAY?
 6 A. CLOSE TO IT.
 7 Q. DURING THE TWO HOURS IS IT FAIR TO SAY YOU
 8 DON'T SEE MR. HOWARD IN THAT AREA?
 9 A. NO, I DO NOT.
 10 Q. NOR DO YOU SEE THIS VEHICLE THAT MR. --
 11 IN WHICH RAYMOND HOWARD PULLS UP IN ON THE 4TH? YOU
 12 DON'T SEE THAT IN THE AREA ON THE 2ND?
 13 A. NO, I DIDN'T.
 14 Q. THEN YOU INDICATE ON THE 2ND -- I'M SORRY --
 15 ON THE 3RD, THE VERY NEXT DAY, YOU GO BACK AND MAKE A
 16 SURVEILLANCE OF THE SAME EXACT AREA?
 17 A. THAT'S CORRECT.
 18 Q. AND LOOKS LIKE, FROM THE PAPERWORK, YOU BEGIN
 19 THE SURVEILLANCE ABOUT 11 IN THE MORNING?
 20 A. YES, IT WAS.
 21 Q. AND FROM THE PAPERWORK IT APPEARS THAT THEY
 22 CONCLUDE THAT SURVEILLANCE ABOUT 4 OR MAYBE 4:15 IN
 23 IN AFTERNOON?
 24 A. YEAH. IT WOULD BE CLOSE, ABOUT 4:15.
 25 Q. YOU WERE THERE THAT ENTIRE 5 OR 5-1/2 HOURS?

PAGE 49

1 Off. Brian Monaghan - Cross 49
 2 A. YES.
 3 Q. DURING THAT ENTIRE TIME MR. HOWARD NEVER
 4 APPEARS NOR THE CAR WHICH HE'S SEEN IN ON THE 4TH
 5 APPEARS?
 6 A. THAT'S CORRECT.
 7 Q. THEN YOU SAID YOUR SURVEILLANCE ON THE -- YOUR
 8 POLICY, I THINK YOU SAID YOU SET UP YOUR SURVEILLANCE
 9 ABOUT 1:40 P.M.
 10 A. ABOUT 1:40. YES.
 11 Q. FROM 1:40 TO 3:05 THERE'S NO MR. HOWARD?
 12 A. THAT'S CORRECT.
 13 Q. AND THERE'S NO MR. HOWARD, A GREEN BONNEVILLE
 14 IS NOT AT THAT LOCATION?
 15 A. NO, IT WAS NOT.
 16 Q. AND THERE'S ANOTHER GREEN BONNEVILLE THAT YOU
 17 SAW SOMEONE ELSE OPERATING THAT SAME DAY, BUT THAT'S
 18 NOT THE SAME GREEN BONNEVILLE WE'RE TALKING ABOUT
 19 HERE?
 20 A. NO, IT'S NOT.
 21 Q. DIFFERENT VIN NUMBER, DIFFERENT PLATE,
 22 DIFFERENT CAR?
 23 A. THAT'S CORRECT.
 24 Q. YOU SAID YOU SAW MR. HOWARD PULL UP ABOUT 3:05
 25 IN THE BONNEVILLE WITH MR. GREY?

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SHEET 14 PAGE 50

1 Off. Brian Monaghan - Cross 50
 2 A. YES.
 3 Q. WAS THERE ANYONE ELSE IN THE VEHICLE WHEN THEY
 4 ARRIVED?
 5 A. NO.
 6 Q. YOU SAID MR. HOWARD WALKED UP TO THE PORCH,
 7 5606 MASTER STREET, THERE'S SOME KIND OF CONVERSATION
 8 WITH MR. LEE WHERE YOU CAN'T HEAR THE CONTENT?
 9 A. YES.
 10 Q. THIS DAY YOU'RE ACTUALLY PARKED ON THE
 11 SOUTHEAST CORNER OF 56TH AND MASTER, LITTLE BIT
 12 FURTHER THAN YOUR PREVIOUS LOCATION ON THE PREVIOUS
 13 DAY, WHICH WAS RIGHT ACROSS THE STREET?
 14 A. ON THE 2ND IT WAS RIGHT ACROSS THE STREET.
 15 ON THE 3RD AND 4TH IT WAS ON THE SAME CORNER.
 16 Q. SO YOU INDICATED THAT THEY HAD A CONVERSATION
 17 THAT YOU CAN'T HEAR AND YOU SAW MR. DE LEE HAND MY
 18 CLIENT SOME MONEY?
 19 A. THAT'S CORRECT.
 20 Q. THERE'S NO EXCHANGE OF ANY PACKETS OR GOLF BALL
 21 SIZE BAGS AT THAT POINT?
 22 A. NO, IT WAS NOT.
 23 Q. WOULD YOU SAY DURING THE ENTIRE TIME YOU
 24 OBSERVED MR. HOWARD ON THE PORCH THERE'S ACTUALLY NO
 25 TRANSACTION OCCURRING AT 5605 MASTER STREET?

PAGE 51

1 Off. Brian Monaghan - Cross 51
 2 A. NO, THERE WAS NOT.
 3 Q. BY ANY OF THESE DEFENDANTS, THAT YOU COULD SEE,
 4 ANYBODY, AT LEAST WHILE MR. HOWARD IS THERE. NONE OF
 5 THESE PEOPLE NAMED IN THIS INVESTIGATION EXCHANGED ANY
 6 KIND OF NARCOTICS, AS LEAST FOR THAT FIVE MINUTES THAT
 7 MR. HOWARD'S THERE?
 8 A. THAT'S CORRECT.
 9 Q. YOU SAID MR. HOWARD WALKS TO THE CORNER WITH --
 10 STRIKE THAT.
 11 YOU SAID HE DIDN'T WALK TO THE CORNER, HE
 12 WALKED BACK TO THE VEHICLE, THE BONNEVILLE?
 13 A. YES.
 14 Q. AND HE ENTERED THE BONNEVILLE?
 15 A. THAT'S CORRECT.
 16 Q. THE MONEY YOU SEE, HE DOESN'T EXCHANGE THAT
 17 WITH MR. GREY? NO EXCHANGE WITH MR. GREY?
 18 A. THAT'S CORRECT.
 19 Q. AND MR. GREY DOESN'T GIVE OR RECEIVE OR DISPLAY
 20 ANYTHING FROM MR. HOWARD?
 21 A. THAT'S CORRECT.
 22 Q. OKAY, AS FAR AS YOU CAN SEE, WHAT WAS LATER
 23 RECOVERED FROM HIM HE DIDN'T OBTAIN WHILE HE WAS
 24 STANDING ON MASTER STREET?
 25 MS. ROBINSON: OBJECTION TO THE FORM OF

PAGE 52

1 Off. Brian Monaghan - Cross 52
 2 THE QUESTION.
 3 THE COURT: DID YOU UNDERSTAND THAT? I
 4 UNDERSTOOD IT.
 5 THE WITNESS: YOUR HONOR, ONLY THING I
 6 SAW MR. HOWARD RECEIVE WAS A BUNDLE OF U.S.
 7 CURRENCY.
 8 BY MR. SPINA:
 9 Q. I MEAN MR. GREY. DID YOU SEE -- I KNOW YOU SAY
 10 AT SOME POINT LATER SOME OBJECTS LATER WERE RECOVERED
 11 FROM MR. GREY.
 12 MY QUESTION WAS, DID YOU SEE MR. GREY OBTAIN
 13 ANY OF THESE THINGS WHILE THERE ON MASTER STREET?
 14 A. NO, I DID NOT.
 15 Q. SO WOULD IT BE FAIR TO SAY, AS FAR AS YOU CAN
 16 TELL, THE THINGS THAT WERE LATER RECOVERED FROM
 17 MR. GREY WERE NOT OBTAINED AT A TIME OR IN A POSITION
 18 WHERE MR. HOWARD SAW IT?
 19 A. THAT WOULD BE -- YES.
 20 Q. SO SUBSEQUENTLY YOU SAID THEY ENTERED INTO THE
 21 CAR AND THE CAR WAS STOPPED AND SOME ITEMS WERE
 22 RECOVERED FROM MR. HOWARD AND SOME ITEMS WERE
 23 RECOVERED FROM MR. GREY?
 24 A. THAT'S CORRECT.
 25 Q. I KNOW YOU WEREN'T THERE TO SEE IT, OKAY, BUT

PAGE 53

1 Off. Brian Monaghan - Cross 53
 2 SUBSEQUENTLY, LATER ON IN YOUR INVESTIGATION SOME
 3 MONEY IS TURNED OVER TO YOU THAT WAS RECOVERED FROM
 4 MR. HOWARD?
 5 A. THAT'S CORRECT.
 6 Q. AND THERE WERE NO DRUGS RECOVERED FROM
 7 MR. HOWARD, AS FAR AS YOU'RE AWARE OF; CORRECT?
 8 A. CORRECT.
 9 Q. AND NO PACKAGE MATERIAL FROM MR. HOWARD, AS FAR
 10 AS YOU KNOW OF?
 11 A. NO, THERE WAS NOT.
 12 Q. AND NO KEYS WERE RECOVERED FROM MR. HOWARD THAT
 13 FIT ANY OF THESE LOCKS OR PADLOCKS OR DOOR LOCKS AT
 14 ANY OF THESE LOCATIONS; AM I CORRECT?
 15 A. THAT'S CORRECT.
 16 Q. AND THERE'S NO DOCUMENTATION RECOVERED FROM ANY
 17 OF THESE HOUSES OR ANY CARS THAT WERE SEARCHED THAT
 18 INDICATED THAT MR. HOWARD HAD ANY INTEREST IN ANY OF
 19 THESE PLACES?
 20 A. NO, SIR.
 21 MS. ROBINSON: OBJECTION TO "INTEREST".
 22 THE COURT: THERE WAS NO DOCUMENTATION IN
 23 HIS NAME RECOVERED FROM ANY OF THE LOCATIONS,
 24 IS THAT A FAIR CHARACTERIZATION AND STATEMENT?
 25 MS. ROBINSON: YES.

COURT OF COMMON PLEAS - MINUSCRIPT

SHEET 15 PAGE 54

1 Off. Brian Monaghan - Cross 54
 2 THE COURT: AND THAT WOULD BE YES FROM
 3 THE OFFICER, ALSO?
 4 THE WITNESS: YES.
 5 THE COURT: THANK YOU.
 6 MR. SPINA: THANK YOU, YOUR HONOR.
 7 THAT'S ALL I HAVE.
 8 THE COURT: HOW MUCH MONEY WAS RECOVERED
 9 FROM MR. HOWARD?
 10 THE WITNESS: YOUR HONOR, I BELIEVE IT
 11 WAS \$1123.
 12 MR. SPINA: AS A MATTER OF FACT, I HAVE
 13 ONE MORE QUESTION.
 14 MS. ROBINSON: I'LL HAVE OFFICER
 15 FITZGERALD WHO ARRESTED MR. HOWARD --
 16 MR. SPINA: I JUST HAVE ONE MORE
 17 QUESTION.
 18 THE COURT: GO AHEAD.
 19 BY MR. SPINA:
 20 Q. OFFICER MONAGHAN, YOU SAID YOU SAW MY CLIENT
 21 RECEIVE MONEY.
 22 AT THAT POINT IN TIME YOU SAY YOU COULDN'T TELL
 23 HOW MUCH MONEY HE WAS RECEIVING?
 24 A. NO. JUST LOOKED LIKE A WAD, A BUNDLE.
 25 Q. LOOKED LIKE A WAD?

PAGE 55

1 Off. Brian Monaghan - Cross 55
 2 A. YES.
 3 Q. IT DIDN'T NECESSARILY LOOK LIKE TWO WADS OF
 4 MONEY?
 5 A. NO.
 6 MR. SPINA: OKAY. THAT'S ALL I HAVE.
 7 MR. MC MONAGLE: MAY I, YOUR HONOR?
 8 THE COURT: YES.
 9 BY MR. MC MONAGLE:
 10 Q. OFFICER, GOOD MORNING. GOOD AFTERNOON, I
 11 SHOULD SAY. COUPLE QUESTIONS REGARDING MR. TILLMAN.
 12 THAT'S THE GENTLEMAN IN THE GREEN BACK THERE.
 13 FAIR TO SAY THAT BASED ON YOUR OBSERVATIONS YOU
 14 DIDN'T SEE HIM AT ANY POINT IN TIME IN POSSESSION OF
 15 ANY DRUG PARAPHERNALIA OF ANY KIND, IS THAT FAIR?
 16 A. THAT'S CORRECT.
 17 Q. AND YOU DIDN'T SEE HIM RECEIVE ANY MONEY OF ANY
 18 KIND, DID YOU?
 19 A. NO, I DID NOT.
 20 Q. FAIR TO SAY WHEN YOU CONDUCTED YOUR SEARCHES,
 21 YOU DID NOT FIND ANY KEYS TO ANY VEHICLES OR ANY
 22 PROPERTIES INVOLVED THIS INVESTIGATION? FAIR TO SAY?
 23 DEFENDANT TILLMAN: THEY TOOK MY --
 24 MR. MC MONAGLE: HOLD IT. DON'T TALK,
 25 I'LL TALK.

PAGE 56

1 Off. Brian Monaghan - Cross 56
 2 THE WITNESS: I'M NOT AWARE OF ANYTHING
 3 THAT WAS RECOVERED. I BELIEVE MAYBE A JACKET.
 4 BY MR. MC MONAGLE:
 5 Q. OKAY. BUT NOTHING THAT IN ANY WAY WAS ANY KEYS
 6 OR ITEMS LIKE THAT THAT FIT ANY OF THE DOORS INVOLVED
 7 IN THIS INVESTIGATION?
 8 A. NO. THERE WAS NONE.
 9 Q. SAME WOULD HOLD TRUE WITH THE VEHICLES, IS THAT
 10 FAIR?
 11 A. THAT'S CORRECT.
 12 Q. AND DO YOU KNOW FROM YOUR INDEPENDENT KNOWLEDGE
 13 WHEN HE WAS SEARCHED, WHETHER ANYTHING WAS RECOVERED
 14 FROM HIS PERSON?
 15 A. I'M NOT POSITIVE.
 16 Q. OKAY. THAT COVERS IT AS TO MR. TILLMAN.
 17 AS TO MR. DIGGS, YOU REFERRED IN YOUR REPORT
 18 THAT SOME POINT IN TIME IN YOUR INVESTIGATION YOU SAW
 19 HIM INVOLVED IN TRANSACTIONS?
 20 A. THAT'S CORRECT.
 21 Q. WHEN HE WAS WITH UNIDENTIFIED INDIVIDUALS?
 22 A. YES.
 23 Q. WERE THESE INDIVIDUALS STOPPED AND SEARCHED?
 24 A. NO, THEY WERE NOT.
 25 Q. IT'S FAIR TO SAY WE DON'T KNOW WHAT, IF

PAGE 57

1 Off. Brian Monaghan - Cross 57
 2 ANYTHING, THEY HAD ON THEIR PERSONS WHEN, IF, IN FACT,
 3 THIS TRANSACTION DID TAKE PLACE?
 4 A. THAT'S CORRECT.
 5 MR. MC MONAGLE: OKAY. NO FURTHER
 6 QUESTIONS.
 7 THE COURT: THANKS. YOU'RE EXCUSED.
 8 THE WITNESS: THANK YOU, YOUR HONOR.
 9 -----
 10 (WITNESS EXCUSED.)
 11 -----
 12 MS. ROBINSON: YOUR HONOR, COMMONWEALTH
 13 CALLS OFFICER JEFF WALKER.
 14 MR. MC MONAGLE: OFFER.
 15 MS. ROBINSON: HE FOLLOWED TORAIN.
 16 MR. SCIOLLA: HE'S ALREADY TESTIFIED --
 17 MS. ROBINSON: HE OBSERVED RECOVERY OF
 18 THE KEY.
 19 MR. SCIOLLA: I STIPULATE HE TAKES THE
 20 KEY FROM MR. TORAIN, THAT HE WILL TESTIFY HE
 21 TOOK THE KEY FROM MR. TORAIN THAT HIT 1628
 22 NORTH 55TH.
 23 MS. ROBINSON: THAT HE FOLLOWS DIGGS,
 24 TILLMAN, AND DE LEE TO THE LOCATION OF 1628
 25 NORTH 55TH.

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SHEET 16 PAGE 58

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MR. MC MONAGLE: THAT'S BEEN TESTIFIED

TO.

MS. ROBINSON: AND OFFICER WALKER CAN SEE IN AND SEE HE'S GOING TO THE MIDDLE APARTMENT ON THE FIRST FLOOR, APARTMENT NO. 2. THAT IS THE LOCATION WHERE ALL THOSE INDIVIDUALS ARE, AND THAT HE SEES MR. TORAIN USE A KEY IN ORDER TO ACCESS THAT LOCATION AND, IN FACT, WHEN HE'S ARRESTED, MR. TORAIN HAS A KEY TO 1628 NORTH 55TH STREET.

MR. SCIOLLA: FOR PURPOSES OF THIS HEARING, JUDGE, I'LL STIPULATE THAT'S WHAT OFFICER -- WHAT'S HIS NAME?

MS. ROBINSON: JEFF WALKER.

MR. SCIOLLA: -- WOULD TESTIFY.

THE COURT: JUST MR. TORAIN ENTERED THAT PROPERTY WITH USE OF THE KEY, OR DOES HE SEE THE OTHER TWO INDIVIDUALS?

MR. SCIOLLA: THREE.

MS. ROBINSON: NO. HE SEES HIM ENTER 1628 NORTH --

THE COURT: ONLY TORAIN.

MS. ROBINSON: ONLY SEES TORAIN.

THE COURT: OFFICER, FOR PURPOSES OF THIS HEARING, LOOKS LIKE MOST OF YOUR TESTIMONY IS BEING STIPULATED TO. THERE'S ONLY ONE QUESTION, I GUESS, THAT WE'RE NOT REAL CLEAR ON, AND THAT'S, WHEN YOU SEE MR. TORAIN ENTER THE PROPERTY ON NORTH 55TH STREET, I UNDERSTAND WHEN YOU WENT TO THAT LOCATION HE WAS WITH MR. DIGGS AND MR. DE LEE; IS THAT CORRECT?

OFF. WALKER: YES.

THE COURT: AND HE ENTERED THE PROPERTY WITH THE KEY AND YOU OBSERVED HIM ACTUALLY GOING INTO THE MIDDLE FIRST FLOOR UNIT?

OFF. WALKER: FIRST I OBSERVED MR. TORAIN ENTER THE PROPERTY BY HIMSELF.

THE COURT: OKAY.

THE WITNESS: LATER I OBSERVED THREE MALES ENTER THE PROPERTY OF 1628 NORTH 55TH STREET.

THE COURT: DO YOU ACTUALLY --

THE WITNESS: THREE MALES WERE ALL TOGETHER.

THE COURT: TORAIN ENTERED THE PROPERTY BY HIMSELF FIRST. THE QUESTION, I GUESS, WE HAD IS, COULD YOU TELL, ONCE YOU SEE THEM ENTER

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THE COURT: OKAY.

MS. ROBINSON: AND THEN -- IF I MAY JUST HAVE ONE MINUTE. HE ALSO ARRESTS HIM, RECOVERS THE PAGER, THE KEY, AND \$250 ON HIM, AND ALL THREE OF THOSE MALES WENT INTO THAT LOCATION. IF I COULD JUST HAVE A MOMENT TO CLARIFY.

MR. SCIOLLA: THE QUESTION IS, DID THEY GO INTO THE APARTMENT OR JUST INTO THAT PROPERTY.

THE COURT: THAT'S CORRECT. BRING HIM IN. ALLISON CAN GET HIM.

MS. ROBINSON: OH, OKAY.

THE COURT: JUST HAVE HIM STAND RIGHT THERE NEXT TO YOU AND I'LL ASK HIM.

MS. ROBINSON: DO YOU WANT HIM SWORN?

THE COURT: POLICE OFFICER JEFFREY WALKER.

POLICE OFFICER JEFFREY WALKER, BADGE NO. 3730, NARCOTICS UNIT, PHILADELPHIA POLICE DEPARTMENT, CALLED AS A WITNESS ON BEHALF OF THE COMMONWEALTH, HAVING BEEN DULY SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

THAT PROPERTY, WHERE THEY GO IN THE PROPERTY?

OFF. WALKER: WHEN TORAIN ENTERED THE PROPERTY, I EXITED THE VEHICLE, CONDUCTED A FOOT SURVEILLANCE OF THE APARTMENT. I OBSERVED A LIGHT GOING ON AS WELL AS I OBSERVED HIM IN THROUGH THE WINDOW.

THE COURT: THE ONLY ONE YOU ACTUALLY SAW INSIDE THAT PROPERTY WAS MR. TORAIN?

OFF. WALKER: THAT'S CORRECT.

THE COURT: YOU NEVER ACTUALLY SAW DIGGS OR DE LEE IN THAT PROPERTY?

OFF. WALKER: I SAW THEM GOING --

THE COURT: IN THAT PARTICULAR UNIT?

OFF. WALKER: THAT'S CORRECT.

THE COURT: YOU HAVE NO WAY OF KNOWING WHETHER THEY WENT INTO THAT INDIVIDUAL UNIT WE'RE TALKING ABOUT OR THEY DIDN'T?

OFF. WALKER: NO. I HAVE NO WAY OF KNOWING.

MR. SCIOLLA: IF I MAY.

CROSS-EXAMINATION

COURT OF COMMON PLEAS - MINUSCRIPT

SHEET 17 PAGE 62

PAGE 64

1 Off. Jeffrey Walker - Cross 62

2 BY MR. SCIOLLA:

3 Q. YOU ACTUALLY SAW THREE PEOPLE ENTER THE

4 PROPERTY?

5 A. YES. ALL AT THE SAME TIME. WOULD BE DARNELL

6 DE LEE, TILLMAN, AND -- REFER TO MY NOTES? *check this*

7 Q. DIGGS?

8 A. TILLMAN, DIGGS AND DE LEE.

9 Q. AND WHEN THEY WENT INTO THE PROPERTY, HOW DID

10 THEY GET IN THE FRONT DOOR?

11 A. THEY JUST WALKED -- I DON'T KNOW IF THEY

12 ENTERED WITH A KEY OR NOT.

13 Q. DID YOU SEE MR. TILLMAN -- EXCUSE ME, DID YOU

14 SEE MR. TORAIN USE A KEY TO ENTER 1628 NORTH 55TH

15 STREET?

16 A. THAT'S CORRECT.

17 Q. SO HE OPENED THE DOOR TO 1628 55TH STREET WITH

18 A KEY, AND THEN ABOUT HOW MANY MINUTES LATER DID YOU

19 SAY YOU SAW THESE THREE MEN IN THE PROPERTY?

20 A. MAYBE ABOUT, TEN, TEN OR FIFTEEN MINUTES LATER.

21 Q. HOW DID THEY GET IN?

22 A. THEY JUST WALKED INTO THE PROPERTY. I DON'T

23 KNOW IF THEY ENTERED WITH A KEY OR NOT.

24 Q. YOU DIDN'T SEE THEM USE A KEY ON THE FRONT

25 DOOR?

1 64

2 MS. ROBINSON: YOUR HONOR, THE

3 COMMONWEALTH WOULD CALL OFFICER FITZGERALD

4 OKAY.

5 MR. MC MONAGLE: OFFER.

6 MS. ROBINSON: TWO SEPARATE BUNDLES FROM

7 THE DEFENDANT HOWARD, THE AMOUNT, \$585, ONE

8 BUNDLE, \$553 IN ANOTHER, FOR A TOTAL OF

9 \$1138, AND HE ALSO OBTAINED THE KEY TO 5705,

10 FROM THE CO-DEFENDANT DE LEE, WHICH OPERATED

11 THE FRONT DOOR AND THE KEY TO THE PADLOCK.

12 THE COURT: OKAY.

13 MR. CAMPBELL: 5605.

14 MS. ROBINSON: 5705.

15 MR. CAMPBELL: 5605.

16 THE COURT: YOU'RE SAYING 57.

17 MS. ROBINSON: OH, I'M SORRY. IT'S 5605.

18 THANK YOU, MR. CAMPBELL. I'M SORRY. RIGHT,

19 '05 PROPERTY. HE DID THE ARREST OF DE LEE.

20 MS. ROBINSON: MR. SPINA MIGHT HAVE SOME

21 QUESTIONS FOR HIM BECAUSE HE RECOVERED THE --

22 MR. SPINA: ONLY THING I'M READING FROM

23 THE '49, WHEN HE ARRESTED MR. DE LEE, HE ALSO

24 RECOVERED \$850 FROM HIS POSSESSION. THAT'S

25 STIPULATED TO. THAT'S WHAT IT READS HERE.

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1 Off. Jeffrey Walker - Redirect 63

2 A. NO.

3 Q. NOW, THEY'RE IN THE FRONT AND YOU HAVE NO IDEA

4 WHERE THEY GO ONCE THEY'RE IN THE PROPERTY?

5 A. NO, THEY'RE IN THE PROPERTY FOR APPROXIMATELY

6 ABOUT 20 MINUTES.

7 Q. AND WHEN THEY EXITED, MR. TORAIN EXIT WITH

8 THEM?

9 A. NO, HE DIDN'T.

10 MR. SCIOLLA: NO FURTHER QUESTIONS.

11 YOUR HONOR.

12 MR. MC MONAGLE: NO QUESTIONS.

13 -----

14 REDIRECT EXAMINATION

15 -----

16 BY MS. ROBINSON:

17 Q. YOU WERE PRESENT WHEN OFFICER REYNOLDS TOOK THE

18 KEY OFF OF TORAIN?

19 A. YES.

20 THE COURT: OKAY. I THINK THAT COVERS

21 OFFICER WALKER'S TESTIMONY.

22 THANK YOU.

23 -----

24 (WITNESS EXCUSED.)

25 -----

1 65

2 THEN I WOULD AGREE THAT HE RECOVERED MONEY FROM

3 MY CLIENT AS WELL.

4 MS. ROBINSON: RIGHT. AND HE ALSO

5 RECOVERED THE \$20 BUY MONEY OFF OF DE LEE.

6 MR. SPINA: RIGHT.

7 MS. ROBINSON: BRAD MITCHELL, OFFICER

8 BRAD MITCHELL.

9 IS THAT STIPULATED TO, GENTLEMEN?

10 MR. SPINA: YES.

11 MS. ROBINSON: COMMONWEALTH WOULD

12 CALL OFFICER JEFF GALAZKA.

13 MR. MC MONAGLE: OFFER.

14 MS. ROBINSON: OKAY. HE DID 5607 MASTER

15 STREET, AND WOULD TESTIFY HE ARRESTED --

16 MR. CAMPBELL: 56. THERE'S A TYPO.

17 MS. ROBINSON: -- EILEEN HODGES, THE

18 MOTHER OF ANTHONY HODGES, AND INSIDE A DRAWER

19 IN THE LIVING ROOM HE RECOVERS \$268. HE

20 ALSO RECOVERS THREE WEAPONS AND SOME LIVE

21 ROUNDS, WHICH ARE DELINEATED IN THE '49, AND HE

22 ALSO RECOVERS FROM ANTHONY HODGES' SECOND

23 FLOOR, MIDDLE BEDROOM, A BAGGIE THAT CONTAINS

24 76 PACKETS OF MARIJUANA AND ONE CHUNK OF CRACK,

25 WHICH WAS PLACED ON PROPERTY RECEIPT 2298586,

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1
2 AND THE DEFENDANT, ANTHONY HODGES, WHEN HE WAS
3 PROCESSED --

4
5 (COUNSEL CONFER.)
6

7 MS. ROBINSON: THAT WOULD BE THE
8 EXTENT OF THE TESTIMONY FOR GALAZKA.

9 IS THAT ACCEPTABLE?

10 MR. MC MONAGLE: YEAH.

11 MS. ROBINSON: AND THEN OFFICER FRANCIS.
12 WOULD CALL HIM TO TESTIFY THAT HE ARRESTED
13 MAURICE GREY, AND THAT'S ALREADY BEEN
14 DELINEATED, WHAT WAS CONFISCATED FROM HIM, 14
15 YELLOW PACKETS, 112 XANEX, AND \$68 IN U.S.
16 CURRENCY. HE ALSO PARTICIPATED IN ARRESTING
17 RAYMOND HOWARD WITH FITZGERALD. HE ALSO
18 ARRESTED MR. DIGGS, WHO HAD ON HIS PERSON 1478
19 XANAX PILLS AND A CELL PHONE, AND I BELIEVE
20 \$313 IN U.S. CURRENCY.

21 MR. STERN: JUST SO IT'S CLEAR,
22 EVERYTHING THAT WAS RECOVERED FROM MR. GREY,
23 THAT WAS IN HIS POCKETS OR IT WASN'T IN PLAIN
24 VIEW, IS THAT WHAT YOU'RE --

25 MS. ROBINSON: YES.

1 (MS. ROBINSON ENTERED THE COURTROOM.)
2

3
4 MS. ROBINSON: I JUST HAVE TO TALK TO
5 MR. CAMPBELL FOR A SECOND.
6

7 (COUNSEL CONFER.)
8

9 MS. ROBINSON: JUDGE, THERE'S AN ADDENDUM
10 TO THE STIPULATION FROM OFFICER WALKER THAT HE
11 RECOVERED A KEY TO 5707 FROM MR. HODGES, AND
12 OFFICER GALAZKA, PART OF THE STIPULATION ON
13 THAT IS THAT WHEN HE WALKED IN, EILEEN HODGES
14 SAID THAT THAT WAS HER SON'S BEDROOM, THE
15 SECOND FLOOR MIDDLE BEDROOM, WHERE THE DRUGS
16 WERE RECOVERED.

17 THE COURT: OKAY?

18 MS. ROBINSON: NOW, WITH RESPECT TO THE
19 SEIZURES, YOUR HONOR, WITH RESPECT TO THE FOUR
20 THAT WERE PERFORMED BY OFFICER MITCHELL,
21 2298585, THEY TESTED POSITIVE FOR COCAINE, THAT
22 WEIGHT, LESS THAN TWO GRAMS.

23 WITH RESPECT TO THE DRUGS FROM 5607
24 MASTER STREET, HODGES' RESIDENCE, THE CHUNK IN
25 HIS BEDROOM, THAT WAS ON 2298586, TESTED

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1 MR. STERN: OKAY.
2

3 MS. ROBINSON: IF I MAY JUST HAVE A
4 MOMENT WITH RESPECT TO THE 75-229. I THINK
5 THAT I'LL JUST GO ON THE SEIZURES, JUDGE.
6

7 (MS. ROBINSON LEFT THE COURTROOM.)
8

9 THE COURT: SO FAR IS EVERYTHING
10 STIPULATED TO?

11 MR. MC MONAGLE: YES;

12 MR. SCIOLLA: YES.

13 THE COURT: MR. CAMPBELL?

14 MR. CAMPBELL: I'M --

15 THE COURT: OR WAS THERE ONE THING?

16 MR. CAMPBELL: I DIDN'T STIPULATE TO PART
17 OF A '229.

18 THE COURT: THAT'S WHAT SHE'S CHECKING ON
19 NOW. ALL RIGHT.

20 MR. SCIOLLA: DOES YOUR HONOR WANT
21 ARGUMENT NOW?

22 THE COURT: I THOUGHT MS. ROBINSON WOULD
23 WANT TO BE IN THE ROOM FOR IT.

24 MR. SCIOLLA: JUST ASKED.
25

1 POSITIVE, IT WEIGHED 8.9136 GRAMS.
2

3 WITH RESPECT TO THE 177 PACKETS, THAT
4 BROKE DOWN IN QUANTITIES OF 63, 53, 31, AND 30,
5 THAT WERE TAKEN FROM DARNELL DE LEE'S PADLOCKED
6 SECOND FLOOR BEDROOM AT 5605 MASTER STREET,
7 PROPERTY RECEIPT 2298590, THEY ALL TESTED
8 POSITIVE, AND THE NET WEIGHT WAS 29.410 GRAMS.

9 WITH RESPECT TO THE 14 XANAX PILLS TAKEN
10 FROM DEFENDANT DIGGS, PROPERTY RECEIPT 2298596,
11 TESTED POSITIVE FOR XANAX, WHICH IS KNOWN AS
12 ALAZALAM, SCHEDULE III TO IV DRUG.

13 WITH RESPECT TO MARIJUANA FROM 5609
14 MASTER STREET, I BELIEVE IT WAS 5 PACKETS,
15 PROPERTY RECEIPT 2308203, TESTED POSITIVE FOR
16 MARIJUANA. NET WEIGHT OF LESS THAN 30 GRAMS.
17 ALSO, THE MARIJUANA FROM 5607 MASTER WAS
18 MARIJUANA, AND IT WAS MORE THAN 30 GRAMS BUT
19 LESS THAN TWO POUNDS.

20 WITH RESPECT TO THE ITEMS RECOVERED FROM
21 MAURICE GREY, PROPERTY RECEIPT 2308219, THE 14
22 PACKETS TESTED POSITIVE FOR CRACK COCAINE, NET
23 WEIGHT LESS THAN TWO GRAMS, AND THE 112 XANAX
24 PILLS.

25 WITH RESPECT TO KAREEM TORAIN, THAT

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LOCATION, 1628 55TH STREET, SOUTH 55TH STREET, PROPERTY RECEIPT 2308223, FOR THOSE THREE BAGS, THEY TESTED POSITIVE FOR CRACK COCAINE. NET WEIGHT WAS 16.84 GRAMS. THE TOTAL AMOUNT OF ALL THE CRACK COCAINE, THIS WAS 54.41 GRAMS OF CRACK, AND THE TOTAL AMOUNT OF THE MARIJUANA WAS MORE THAN 30 GRAMS AND LESS THAN TWO POUNDS, AND THE TOTAL QUANTITY OF XANAX PILLS WAS 126.

THAT WOULD BE THE COMMONWEALTH'S CASE AT THE PRELIMINARY HEARING AND THAT ALL THOSE QUANTITIES WERE POSSESSED WITH THE INTENT TO DISTRIBUTE.

MR. CAMPBELL: WITH RESPECT TO ANTHONY HODGES, YOUR HONOR, I WOULD ASK THAT HE BE DISCHARGED WITH RESPECT TO ALL ITEMS FOUND IN 5605 MASTER STREET, AND I WOULD ASK FOR A SPECIFIC FINDING. HE DOES HAVE PROBLEMS WITH RESPECT TO 5607 MASTER STREET, GIVEN THE STIPULATION AS TO WHAT THE TESTIMONY WOULD BE. BUT I BELIEVE THAT PRIMA FACIALY, DESPITE THE OBSERVATIONS, THE COMMONWEALTH FAILS TO MEET ITS BURDEN. IT WAS RECOVERED FROM SOMEONE ELSE FOR THAT PROPERTY. THERE WAS PROOF OF RESIDENCY RECOVERED FOR SOMEONE ELSE IN THAT

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PROPERTY AND NO PROOF OF RESIDENCY AT ALL WITH RESPECT TO THAT PROPERTY FOR MR. HODGES.

I WOULD ASK FOR A SPECIFIC FINDING, FOR WHAT IT'S WORTH, DISCHARGING HIM. THERE'S NO EVIDENCE THAT HE CONSTRUCTIVELY POSSESSED ANYTHING IN THAT HOUSE OR EXERCISED DOMINION OR CONTROL.

MS. ROBINSON: JUDGE, YOU WANT ME TO RESPOND TO ALL OF THEM?

THE COURT: NO. DO IT INDIVIDUALLY.

MS. ROBINSON: JUDGE, THE COMMONWEALTH'S THEORY IS THAT ALL THREE PROPERTIES ARE BEING USED TOGETHER, THAT WITH RESPECT TO THESE INDIVIDUALS, THEY ARE USING 5605 AND 5607 AND 5609 AS THE STASH, MARIJUANA HOUSE AND A CRACK HOUSE, AND THAT THEY'RE USING ALL THE PROPERTIES AND INTERMINGLING THEM AND HELPING EACH OTHER OUT. THEREFORE, YOU HAVE A CONSPIRACY TO SELL BOTH MARIJUANA AND CRACK FROM THE PORCH, OR PORCHES, IN THIS LOCATION. ONCE YOU'RE IN, YOU'RE IN.

THE DEFENDANT HODGES LIVES AT ONE OF THE HOUSES, BUT HE'S PARTICIPATING IN THE SALES. HE'S OBSERVED ON JANUARY 2ND ACTIVELY ENGAGED

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IN THIS WITH DARNELL DE LEE. HE'S, AGAIN, OUT THERE, HE'S SELLING, HE'S PARTICIPATING IN THIS. AND THEN YOU HAVE THE ACTUAL DRUGS THAT ARE RECOVERED FROM INSIDE OF THE LOCATION. THEY DON'T KEEP ALL OF THE DRUGS AT ONE LOCATION, YOUR HONOR, AND THEREFORE, THEY ARE PARTICIPATING IN THIS. AND THE FLOW OF ALL OF THE DRUGS THAT IS COMING AROUND AND HOW THEY'RE HELPING EACH OTHER MOVE THE MONEY, SELL THE DRUGS TOGETHER, THEY'RE CLEARLY COOPERATING.

THE COURT: OKAY. THAT'S FINE. YOU GET ONE SHOT. HAVE A SEAT.

MR. SCIOLLA.

MR. SCIOLLA: JUDGE, ONCE AGAIN, THE COMMONWEALTH WANTS YOU TO BE THE SEAMSTRESS IN PUTTING THIS QUILT TOGETHER. I ASK FOR A TOTAL DISCHARGE OF MR. TORAIN. I DON'T SEE HOW THERE'S ANY COLLUSION WHATSOEVER WAS GOING ON ON THE STREETS THAT THEY SAY THEY HAD SURVEILLED ON THE 2ND AND 3RD. MY CLIENT'S THERE TWO TO THREE MINUTES IN THE CAR. ANOTHER GENTLEMAN GETS IN THE CAR AND LEAVES THE CAR. NO TESTIMONY THAT ANY EXCHANGE IS SEEN GIVEN BY BY MR. TORAIN TO THIS OTHER GENTLEMAN.

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THAT OTHER GENTLEMAN LEAVES, WALKS TO THE CORNER, AND SUPPOSEDLY STARTS TO CONTINUE OR CONTINUES TO SELL DRUGS, WHICH HE HAD BEEN SEEN DOING PRIOR THERETO. THERE'S A HEARSAY GRATUITOUS STATEMENT. I DON'T KNOW THE CHARGES HAVE BEEN ESTABLISHED THAT WOULD BE ADMISSIBLE THROUGH ANY CONSPIRACY EXCEPTION.

TO THE EFFECT TORAIN ONLY HAS ONE BUNDLE, DID HE HAVE ONE BUNDLE, DOES HE HAVE A BUNDLE AND HE GAVE IT, DOES HE HAVE A BUNDLE SOMEWHERE ELSE? I HAVE NO IDEA. NEITHER DOES THIS COURT. UNLESS YOU WANT TO STICK THE NEEDLE IN AND SOMEHOW PULL THIS FABRIC TOGETHER FOR THEM, THEN I GUESS YOU CAN JUMP TO WHATEVER CONCLUSION THE GOVERNMENT WANTS YOU TO JUMP TO. BUT THAT STATEMENT, IF, IN FACT, THE COURT DOES LET IT IN, I'M NOT SURE THE CORPUS WAS ESTABLISHED TO ALLOW THAT STATEMENT TO COME IN AGAINST MR. TORAIN.

THEN YOU'VE GOT 1628 NORTH 55TH STREET. I'D LOVE TO SEE THE PROBABLE CAUSE FOR THAT AFFIDAVIT. HE'S SEEN, SUPPOSEDLY, DRIVING OVER TO -- HE GOES TO ANOTHER LOCATION FIRST, 1631, AND THEN HE'S SEEN AT 1628. HE'S THERE ABOUT

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TEN MINUTES, ACCORDING TO THE OFFICER, AND SUBSEQUENTLY THREE OTHER YOUNG MEN SHOW UP AT THAT LOCATION. INTERESTINGLY ENOUGH, THE TESTIMONY IS THAT TORAIN HAD A KEY TO THE OUTSIDE DOOR, AND THEY ASSUMED THAT IT'S TORAIN THAT HAS THE KEY TO THE SECOND FLOOR OF THIS, OR THE MIDDLE ROOM, BECAUSE A LIGHT GOES ON, AND HE SAYS HE COULD SEE HIM THROUGH THE WINDOW, BUT HE DOESN'T SEE THE OTHER THREE GUYS, ONLY SEES TORAIN.

THEY MAKE A CAR STOP. AGAIN, LOVE TO HEAR THE PROBABLE CAUSE FOR THE CAR STOP. THEY THEN SAY THAT THEY SEE MR. TORAIN. THEY TAKE A KEY CHAIN OFF MR. TORAIN. COMMONWEALTH VERSUS RODRIGUEZ HAS BEEN LAW IN OUR STATE FOR THE LAST 20 YEARS AND HAS BEEN REPEATEDLY UPDATED? AND THAT SIMPLY SAYS THAT POSSESSION OF A KEY TO AN APARTMENT IN WHICH DRUGS ARE FOUND IS NOT PROOF POSITIVE OF CONTROL AND DOMINION.

INDEED, THE TESTIMONY FROM THE POLICE OFFICER IS THAT THE DRUGS ARE FOUND INSIDE A SAFE. NO IDENTIFICATION IN THE SAFE. HE'S GOT, SUPPOSEDLY, A KEY TO THE FRONT DOOR AND KEY TO THE APARTMENT DOOR, BUT WE DON'T KNOW

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WHATSOEVER. THERE'S NO DELIVERIES, THERE'S NO RETRIEVALS, NO MONEY EXCHANGES, NO PACKAGE EXCHANGES. THERE'S HIM AT THE CORNER IN A CAR TWO MINUTES, AND THERE'S A STATEMENT SUPPOSEDLY BY SOME OTHER CO-DEFENDANT.

SO WITH REGARD TO 56TH AND MASTER, I WOULD SUBMIT THAT MR. TORAIN HAS -- THE COMMONWEALTH HAS FAILED TO PROVE ANY CONCLUSION ON A PRIMA FACIE LEVE. WITH REGARD TO 1628, COMMONWEALTH VERSUS RODRIGUEZ, I WOULD SUBMIT, DOES NOT MAKE POSSESSION OF A KEY EQUIVALENT TO DOMINION AND CONTROL OVER, APPARENTLY, DRUGS THAT WERE SECRETED OR HIDDEN OR NOT IN PLAIN VIEW. AND IF THE COMMONWEALTH DOES ARGUE THE OTHER THREE MEN SHOULD BE HELD, I WOULD SUBMIT INSOFAR AS THE EVIDENCE SUBMITTED TODAY BY COMMONWEALTH, MR. TORAIN SHOULDN'T BE HELD FOR ANY CHARGES. EVERYTHING SHOULD BE DISCHARGED.

THE COURT: YOU CAN STAY SEATED IF YOU WANT.

MS. ROBINSON: THE KEY PIECE OF EVIDENCE AGAINST MR. TORAIN FITS WHAT IS OBSERVED BY OFFICER MONAGHAN, IS DE LEE GETS IN ON THE PASSENGER SIDE OF THE CAR. THE DEFENDANT

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HOW THE SAFE WAS LOCKED. WAS IT A KEY? WAS IT A COMBINATION? WAS IT SOMETHING ELSE? WE DON'T KNOW. WE HAVE NO IDEA. WE DO, AND I GUESS THE GOVERNMENT'S GOING TO SUGGEST, AND I WOULD SUGGEST THAT MY ESTEEMED CO-COUNSEL WILL ARGUE THE POINT, IF THEY ARE GOING TO SUGGEST THAT THEY SHOULD HOLD THE OTHER THREE YOUNG MEN RESPONSIBLE FOR THE 17 OR 16 WHATEVER GRAMS OF CRACK COCAINE INSIDE THE MIDDLE ROOM OF 1628 NORTH 55TH STREET, THEY'RE GOING TO DO SO ON THE BASIS OF THEIR OWN TESTIMONY THAT THESE THREE YOUNG MEN WENT INTO THE HOUSE AND THEN CAME OUT OF THE HOUSE.

SO THEY'RE GOING TO SUGGEST ON ONE HAND YOU SHOULD HOLD THE OTHER THREE GUYS RESPONSIBLE BECAUSE, SUPPOSEDLY, THEY WERE INSIDE THE MIDDLE ROOM, BUT SUGGEST TO YOU THAT IF YOU DON'T, IT MUST BE TORAIN'S DRUGS BECAUSE HE HAD A KEY TO THE FRONT DOOR AND A KEY TO THE MIDDLE BEDROOM, OR TO THIS MIDDLE ROOM.

SO I WOULD SUBMIT, JUDGE, WITH REFERENCE TO ALL OF THE DRUGS THAT WERE BEING DEALT AT 56TH AND MASTER, AS OFFICER MONAGHAN TESTIFIES, HAVE NOTHING TO DO WITH THIS DEFENDANT, NOTHING

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TORAIN IS THE OPERATOR OF THE CAR, AND THAT WHEN DE LEE EXITS THE CAR, HE'S PUTTING A BUNDLE INTO HIS JACKET.

MR. SCIOLLA: OBJECTION. THAT'S NOT THE TESTIMONY. AN OBJECT. HE SAID THERE WAS AN OBJECT BEING PLACED IN HIS JACKET. THAT'S ALL HE TESTIFIED TO. HE DIDN'T SAY ANYTHING ABOUT A BUNDLE. DIDN'T IDENTIFY THE OBJECT.

MS. ROBINSON: WELL --

MR. SCIOLLA: LET'S BE FAIR.

MS. ROBINSON: IF I MAY. WHEN HE GOES BACK TO THE CORNER, JUST A COUPLE MINUTES AFTER TORAIN DRIVES FURTHER DOWN ITHAN STREET, HE SAYS TO DIGGS, THE CO-DEFENDANT, KAREEM, WHO'S THE ONLY KAREEM IN THIS GROUP AND WHO TURNS OUT TO BE THE OPERATOR OF THE GREEN BONNEVILLE, ONLY HAD A BUNDLE ON HIM AND WOULD CALL WHEN THE REST WAS READY.

MR. SCIOLLA: THAT'S NOT WHAT HE SAID.

THE COURT: BUT, MR. SCIOLLA, I UNDERSTAND HER ARGUMENT I HAVE NOTES. I REMEMBER.

MR. SCIOLLA: I DON'T HAVE ANY PROBLEM ABOUT THE ARGUMENT. I HAVE A PROBLEM WITH

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TESTIMONY.

THE COURT: WELL, IT'S HER CHARACTERIZATION OF THE TESTIMONY.

MR. SCIOLLA: HE NEVER SAID HE ONLY HAD ONE BUNDLE.

MS. ROBINSON: AND THEN WHAT YOU HAVE IS THAT A SHORT WHILE LATER, DE LEE GOES TO THE PHONE. HE'S NOT OBSERVED MAKING A CALL. THE INFERENCE IS THAT THE PHONE --

THE COURT: WELL, ACTUALLY. I WROTE DOWN, KAREEM ONLY HAS ONE BUNDLE.

MR. SCIOLLA: BUT NOT ON HIM.

THE COURT: KAREEM ONLY HAS ONE BUNDLE, AND HE WOULD RETURN WHEN THE NEXT WAS READY, OR SOMETHING TO THAT EFFECT.

MR. SCIOLLA: RIGHT. DIDN'T SAY THAT HE HAD ONE BUNDLE ON HIM.

THE COURT: OKAY. HE ONLY HAD ONE BUNDLE.

MR. SCIOLLA: JUST SORT OF HANGS OUT.

THE COURT: OKAY.

MS. ROBINSON: WHAT YOU HAVE, A SHORT WHILE AFTER THAT, AS SOON AS THAT CALL'S MADE, DIGGS, TILLMAN, AND DE LEE GET IN THE CAR AND

JANUARY THE 2ND AND JANUARY THE 3RD, HE'S NOT THERE, HIS VEHICLE IS NOT THERE. FOR A TWO-MINUTE PERIOD ON THE FOURTH HE PULLS UP IN A MOTOR VEHICLE AT A TIME WHEN, ACCORDING TO THE OFFICER, NO TRANSACTIONS ARE TAKING PLACE, NOBODY'S MAKING ANY SALES.

MY CLIENT WALKS UP ON A PORCH, SEES MR. DE LEE THERE, IT'S A VERY BRIEF CONVERSATION, AFTER WHICH MR. DE LEE HANDS MY CLIENT SOME MONEY. THAT'S IT. MY CLIENT THEN WALKS OFF THE PORCH, GETS IN HIS CAR, AND IS STOPPED. HE'S FOUND TO HAVE MONEY ON HIS PERSON. HE HAS NO DRUGS LIKE EVERYONE ELSE, NO PARAPHERNALIA, NO CELL PHONES, NO PAGERS, NOTHING AT ALL. THERE'S NO TRANSACTIONS DONE IN FRONT OF HIM, NO GOLF BALL SIZED BAGS. NOTHING TAKES PLACE OTHER THAN HE WALKS UP AND RECEIVES SOME MONEY. THAT'S IT. NOT A MILLION DOLLARS, NOT \$600.

HE RECEIVES SOME MONEY FROM MR. DE LEE, WHO I WOULD ALSO NOTE FOR THE COURT, WILL STIPULATE TO, AT THE TIME OF HIS ARREST, MOMENTS LATER, HAS IN HIS POSSESSION \$650, MR. DE LEE, INCLUDING THE \$20 BUY MONEY THAT HE

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GO STRAIGHT TO THE LOCATION WHERE TORAIN IS. OFFICER WALKER'S OBSERVING IT. THEY COME BACK, DE LEE STARTS HANDING OUT WHAT APPEAR TO BE BUNDLES, AND THEY ALL START SELLING. AND IT FITS WITH THE FACT THAT KAREEM THIS DEFENDANT, KAREEM, TORAIN HAD THOSE BUNDLES, WAS PREPARING THEM, OBTAINING THEM, AND THEN DISTRIBUTING THEM TO THESE OTHER INDIVIDUALS AND FACILITATING THE ONGOING DRUG OPERATION IN THESE PORCH FRONTS ON MASTER STREET.

THE COURT: OKAY. NEXT.

MR. STERN: CAN I REMAIN SEATED?

THE COURT: YOU MAY.

MR. STERN: JUDGE, IF I MAY, I WOULD CONCEDE IN THIS MATTER IT WOULD BE APPROPRIATE TO REMAND ON K&L.

THE COURT: OKAY.

MR. STERN: NO PROBLEM.

THE COURT: K&L ONLY. OCCASIONALLY YOU GET ONE. DON'T LOOK SO SHOCKED.

MR. SPINA: MY CLIENT REALLY IS IN A DIFFERENT POSITION THAN EVERYONE HERE. THE ONLY EVIDENCE AGAINST HIM, QUITE FRANKLY, ALL THROUGHOUT THOSE HOURS OF SURVEILLANCE ON

RECEIVED FROM POLICE OFFICER MITCHELL JUST THE DAY BEFORE, AND ALSO \$280. SO IS THE COMMONWEALTH'S THEORY MY CLIENT IS SOMEHOW THE MONEY MAN? BECAUSE QUITE FRANKLY, MR. DE LEE IS ARRESTED WITH A LOT OF MONEY RIGHT AFTER HE GIVES MY CLIENT SOME MONEY. MR. DE LEE IS ARRESTED WITH \$1130, INCLUDING BUY MONEY FROM THE DAY BEFORE.

AND NO ONE IS SUGGESTING THAT ANYBODY'S SPECIFIC MONEY'S GIVEN TO MY CLIENT, ANY SPECIFIC DENOMINATIONS. HE RECEIVES SOME MONEY, STEPS OFF THE PORCH, AND GETS IN HIS CAR. AND THAT'S IT FOR MR. HOWARD, AND MR. DE LEE, WHO GAVE HIM THIS MONEY, HAS \$1100 MOMENTS LATER WHEN HE'S STOPPED, INCLUDING BUY MONEY. I'M NOT REALLY SURE HOW MR. HOWARD KNOWS THAT DRUG TRANSACTIONS ARE TAKING PLACE WHEN HE'S THERE. NONE OF THESE GUYS ARE THERE AT THIS TIME. ALL THESE GENTLEMEN HAVE LEFT. MY CLIENT ARRIVES. DIGGS AND HODGES AND WHOEVER ELSE, THEY'RE NOT THERE. HE SEES MR. DE LEE, BRIEF CONVERSATION, RECEIVES MONEY. THE COMMONWEALTH WOULD BE ASKING YOU, A LEAP OF FAITH --

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1
2 THE COURT: I UNDERSTAND YOUR ARGUMENT.
3 WHAT'S YOUR POSITION ON HIM?
4 MS. ROBINSON: JUDGE, IF I MAY, HE'S
5 RECEIVING THE MONEY FROM DE LEE WHO CLEARLY IS
6 IN CHARGE OF THE DRUG SELLING, AND THE MONEY IS
7 A SUBSTANTIAL QUANTITY OF MONEY, AND IT'S
8 PACKAGED IN SUCH A WAY TO INDICATE THAT IT WAS
9 FROM SALES OF DIFFERENT BUNDLES OF DRUGS. IT'S
10 \$553, YOUR HONOR, IT'S A SUBSTANTIAL QUANTITY
11 OF MONEY, AND IT'S IN TWO BUNDLES, AND IT'S IN
12 A FASHION, HE MUST BE TRUSTED BY THE
13 CO-DEFENDANT DE LEE. AND HANDING IT TO HIM,
14 APPEARS TO BE AN OBVIOUS COLLECTION OF THE
15 MONEY, AND THAT THIS INDIVIDUAL IS ACTUALLY
16 HIGHER UP IN THE ORGANIZATION THAT HE WOULD BE
17 TRUSTED WITH THE MONEY FROM DARNELL DE LEE IN
18 THIS FASHION. AND THE MONEY IN ITSELF, THE WAY
19 IT'S PACKAGED, HOOKS HIM IN.
20 MR. SPINA: OFFICER MONAGHAN ACTUALLY
21 SAID MY CLIENT WAS GIVEN ONE THING OF MONEY.
22 ONE THING.
23 MS. ROBINSON: ONE THING OF MONEY.
24 THE COURT: THE OFFICER CUTS AGAINST YOUR
25 THEORY. YOUR THEORY SEEMS TO BE --

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1
2 MR. SPINA: EXACTLY.
3 THE COURT: -- THAT HE'S PACKAGED THE
4 MONEY AND THAT HE RECEIVES THE PREPACKAGED AS
5 IF ONE'S FOR ONE DAY'S SALES ONE'S FOR ANOTHER
6 DAY'S SALES, WHATEVER YOUR THEORY MIGHT BE.
7 AND THE TESTIMONY WAS REAL CLEAR HE HANDED ONE
8 WAD OF MONEY, AND THE MONEY WAS FOUND DIVIDED
9 INTO, IF YOU WANT TO USE THE WORD WAD, SINCE
10 THAT WAS THEIR WORD, TWO SEPARATE WADS.
11 MS. ROBINSON: THE STIPULATION IS THAT
12 OFFICER FITZGERALD WOULD TESTIFY IT WAS IN TWO
13 SEPARATE BUNDLES AND IT DID APPEAR TO OFFICER
14 MONAGHAN TO BE ONE BIG BUNDLE.
15 MR. SPINA: I ASKED COULD IT HAVE BEEN
16 TWO.
17 MS. ROBINSON: THAT'S WHAT HE SAW,
18 BUT, IN FACT, IT TURNED OUT TO BE TWO.
19 MR. SPINA: IT DIDN'T TURN OUT, IN FACT,
20 TO BE ANYTHING. WHAT DID YOU SEE? I SAW HIM
21 GIVE HIM ONE THING OF MONEY. COULD IT HAVE
22 BEEN TWO? HE SAID NO. DOESN'T MEAN IT COULD
23 BE TWO.
24 MS. ROBINSON: THERE WAS A STIPULATION
25 THAT OFFICER FITZGERALD ARRESTED YOUR CLIENT

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1
2 AND HE RECOVERED --
3 MR. SPINA: I AGREE.
4 MS. ROBINSON: -- TWO SETS OF MONEY.
5 THAT'S WHAT HE RECOVERED.
6 MR. SPINA: DOESN'T MEAN IT CAME FROM
7 DE LEE.
8 THE COURT: WHERE IS FITZGERALD?
9 MS. ROBINSON: RIGHT OUT THERE.
10 THE COURT: BRING HIM IN. I HAVE ONE
11 QUESTION FOR HIM.
12 HAVE A SEAT.
13 MR. SPINA: YES, MA'AM.
14
15 (POLICE OFFICER FITZGERALD ENTERED THE
16 COURTROOM.)
17
18 MS. ROBINSON: OFFICER FITZGERALD,
19 HER HONOR -- WOULD YOU LIKE THE OFFICER SWORN?
20 THE COURT: YOU NEED HIM SWORN?
21 MR. SPINA: NO, JUDGE.
22 THE COURT: OFFICER, TELL ME ABOUT THE
23 MONEY YOU RECOVERED FROM MR. HOWARD.
24 OFF. FITZGERALD: FROM MR. HOWARD?
25 THE COURT: YES.

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1
2 OFF. FITZGERALD: MR. HOWARD WAS STOPPED
3 INSIDE THE VEHICLE. HE WAS THE OPERATOR OF THE
4 GREEN PONTIAC BONNEVILLE, AND U.S. CURRENCY WAS
5 RECOVERED FROM HIM IN TWO DIFFERENT BUNDLES. I
6 CAN GIVE YOU THE EXACT AMOUNT.
7 THE COURT: ONE WAS \$585 AND ONE WAS
8 \$553.
9 OFF. FITZGERALD: I BELIEVE THE TOTAL WAS
10 \$1,123.
11 THE COURT: BUT PACKAGED IN TWO SEPARATE
12 BUNDLES?
13 OFF. FITZGERALD: TWO SEPARATE BUNDLES.
14 THE COURT: AND DO YOU REMEMBER WHERE THE
15 MONEY WAS RECOVERED?
16 OFF. FITZGERALD: I BELIEVE PANTS POCKET,
17 YOUR HONOR.
18 THE COURT: SEPARATE PANTS POCKETS?
19 OFF. FITZGERALD: I'M NOT CERTAIN.
20 THE COURT: OKAY.
21 THE COURT: ALL YOU REMEMBER, TWO
22 SEPARATE AND DISTINCT BUNDLES?
23 OFF. FITZGERALD: THAT'S CORRECT.
24 THE COURT: RUBBER BANDS?
25 OFF. FITZGERALD: FOLDED IN SEPARATE

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FILES.

THE COURT: OKAY. THAT'S FINE.

MR. SPINA: THAT'S MY ARGUMENT, JUDGE.

MR. MC MONAGLE: JUDGE, I'LL START WITH MR. TILLMAN.

MS. ROBINSON: I'LL SPARE MR. MC MONAGLE. I HAVE NO ARGUMENT ON MR. TILLMAN.

THE COURT: SO MR. TILLMAN, YOU AGREE YOU HAVE NO EVIDENCE?

MS. ROBINSON: I WOULD JUST SAY THE COMMONWEALTH HAS NOT MET ITS BURDEN.

THE COURT: THAT'S FINE. AND THAT'S OKAY. YOU KNOW WHAT WE'RE GOING TO DO ON MR. TILLMAN. COMMONWEALTH AT THIS JUNCTURE IS GOING TO WITHDRAW PROSECUTION BASED ON THEIR TESTIMONY.

MS. ROBINSON: FINE. AND AS TO MR. GREY, THE COMMONWEALTH IS GOING TO WITHDRAW PROSECUTION ON ALL CHARGES BUT K&I.

THE COURT: FINE.

MS. ROBINSON: AS TO THE COCAINE AND XANAX.

THE COURT: ALL RIGHT. SO IT SHOULD BE REMANDED ON K&I ON COCAINE AND XANAX.

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THE PROBLEMS I HAD YOU ALREADY ADDRESSED. BUT FOR MR. HOWARD, WHO I ALSO --

MS. ROBINSON: DIGGS IS EVERYTHING?

THE COURT: YES. THE ONES I'M SENDING IN AT THIS JUNCTURE IS EVERYTHING. WE ALREADY ESTABLISHED MR. GREY. GET A DATE ON MR. GREY, K&I. AND WE ESTABLISHED MR. TILLMAN, WITHDRAWING PROSECUTION BASED ON THE TESTIMONY. THE ONLY ONE I HAVE A PROBLEM WITH IS MR. HOWARD.

MS. ROBINSON: I WOULD ALSO JUST POINT OUT ON MR. HOWARD, HE IS ALSO THE OPERATOR AND HE DID DRIVE OFF AT A HIGH RATE OF SPEED, WHICH IS ALSO AN INDICIA, CONSCIOUSNESS OF GUILT.

MR. MC MONAGLE: CAN I USE SOME OF MY ARGUMENT FOR --

THE COURT: I DON'T THINK YOU HAVE IT ON MR. HOWARD, EITHER, BASED ON WHAT I HEARD. YOU MAY KNOW MORE THAN I DO, BUT BASED ON WHAT I HEARD HERE, YOU KNOW, COULD HAVE OWED HIM MONEY FOR ANY NUMBER OF THINGS. HE'S THERE FOR SUCH A LIMITED OPPORTUNITY, ONCE OUT OF THE THREE-DAY PERIOD OF TIME.

MR. SPINA: THANK YOU, YOUR HONOR.

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MS. ROBINSON: EXACTLY.

THE COURT: OKAY. THAT'S FINE. AND THAT WILL MAKE IT REAL EASY.

MR. MC MONAGLE: LASTLY, AS TO DIGGS, MY ARGUMENT AS TO DIGGS, IT'S A CLOSE ONE, BECAUSE I ASKED THE OFFICER WHETHER OR NOT THESE ALLEGED TRANSACTIONS HE WAS INVOLVED IN RESULTED IN ANY STOPS OR SEARCHES OF ANY KIND OF CONTRABAND. HE SAID NO. SO WE DON'T HAVE ANY KIND OF IDEA AS TO WHAT EXACTLY IS INVOLVED. HE IS FOUND WITH, I THINK, 14 XANAXES ON HIS PERSON. SO I WOULD ASK YOU TO HOLD HIM FOR COURT AS TO THAT AND THAT ALONE. AND I DON'T KNOW 14 XANAXES MAKES OUT POSSESSION WITH INTENT TO DELIVER.

MS. ROBINSON: IF I MAY, YOUR HONOR, DIGGS --

THE COURT: HE WAS OUT THERE A WHOLE LOT MORE. I SAVED YOU ON ONE, I'LL SAVE YOU ON THE OTHER. I DON'T HAVE ANY PROBLEM SENDING IN MR. HODGES, I HAVE NO PROBLEM SENDING IN MR. TORAIN. I HAVE NO --

MR. SCIOLLA: ON EVERYTHING, JUDGE?

THE COURT: EVERYTHING.

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THE COURT: NOW, I NEED A REMAND DATE, IF I CAN, AS TO GREY, AND I'M SURE YOU'RE --

THE TIPSTAFF: EVERYONE REMAIN SEATED A MOMENT.

ON THE THREE THAT YOU HELD FOR COURT, THE ARRAIGNMENT DATE WILL BE 11/13/01, 504, CJC, 11:30 A.M.

THE COURT: TEN DAYS TO FILE A MOTION TO QUASH THE TRANSCRIPTS.

NOW, MR. TILLMAN, YOU'RE BACK THERE, YOU'RE EXCUSED.

MR. GREY, YOU NEED A SUBPOENA. OKAY. AND MR. DIGGS WILL NEED A SUBPOENA. COMMONWEALTH, I'M SURE, WILL FILE AN ORAL 1013.

THE TIPSTAFF: YOUR HONOR, REMAND DATE, DECEMBER 20TH, 1003. BACK HERE.

THE COURT: ALL RIGHT. MR. GREY, DON'T GO ANYWHERE YET.

(HEARING CONCLUDED.)

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CERTIFICATE

I hereby certify that the proceedings and testimony taken by and before me are contained fully and accurately in the notes of testimony, and that the foregoing is a true and correct transcript of the same.

Bonnie Smith
Bonnie Smith
Court Reporter

August 15, 2002
Date